

SOUTHERN DISTRICT OF NEW YORK

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Emmanuel Agropong, et al.,

Plaintiffs,

v.

14 Cv. 7990 (RWS)

Michael Memon, et al.,

Defendants.

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New York, N.Y.  
September 30, 2015  
12:30 p.m.

Before:

HON. ROBERT W. SWEET,

District Judge

APPEARANCES

THE MARLBOROUGH LAW FIRM, P.C.

Attorneys for Plaintiffs

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MICHAEL K. CHONG

FELICIA CORSARO

1 MR. MARLBOROUGH: Good afternoon, your Honor.  
2 Christopher Marlborough for the plaintiffs. My cocounsel  
3 stepped away, and my adversary is not here at the moment, but  
4 he is in the building.

5 THE COURT: How about the defendant?

6 MR. MARLBOROUGH: The defendant is here, yes. The  
7 actual defendants? I've seen them in the building.

8 THE COURT: No, defense counsel.

9 MR. MARLBOROUGH: Defense counsel is here, your Honor.  
10 They are just outside the courtroom. Here they come.

11 THE COURT: What does the plaintiff want to do?

12 MR. MARLBOROUGH: Well, we wanted to --

13 THE COURT: I know what you want. What do you want to  
14 do today?

15 MR. MARLBOROUGH: We wanted to present some witnesses  
16 and some audio recording testimony.

17 THE COURT: Okay, fine. Go ahead.

18 MR. CHONG: Your Honor, before we proceed, I was going  
19 to ask if we can have a conference with your Honor as to this  
20 particular hearing, this motion --

21 THE COURT: Yes.

22 MR. CHONG: -- and just discuss some of the procedure  
23 that we're going to be discussing.

24 THE COURT: What's your problem?

25 MR. CHONG: Well, they've brought a number of people

1 here. I don't know who's going to be testifying today or who  
2 is a witness.

3 THE COURT: Neither do I. I have some affidavits.  
4 One presumes that the people who submitted affidavits are going  
5 to testify, but I don't know. I'm sure that counsel will tell  
6 us, if that's your problem. Any other problems?

7 MR. CHONG: Well, I have concern about this recording  
8 that they're seeking to present.

9 THE COURT: We'll worry about that when we get to it.  
10 What else?

11 MR. CHONG: That's it, your Honor. Those are some of  
12 my major concerns.

13 THE COURT: Counsel, let me ask you. Who are you  
14 going to put on?

15 MR. MARLBOROUGH: We'd like to put on Keletso Tebogo,  
16 he's a plaintiff, we have Sergio Recinos, and we're going to  
17 call defendant Mike Memon as well.

18 THE COURT: Okay. Go ahead.

19 MR. MARLBOROUGH: Your Honor, if I may, I do need to  
20 plug in in order to get the audio recording to play.

21 MR. CHONG: Your Honor, I'm sorry. Before he plays  
22 this tape, am I going to be heard on this tape as to whether it  
23 should be played in court today?

24 THE COURT: As I understand it, this is a motion for  
25 contempt. I don't know what this is. I agree.

1 What is it that you want to play, and what is it, and  
2 how are you going to get it in?

3 MR. MARLBOROUGH: Well, your Honor, the two witnesses  
4 that I called, there's two audio recordings.

5 THE COURT: Well, somebody made it.

6 MR. MARLBOROUGH: Our clients recorded those  
7 conversations with the defendants, yes.

8 THE COURT: Presumably, you want to put the person who  
9 made the recording on the stand so it can be examined.

10 MR. MARLBOROUGH: That's correct.

11 THE COURT: Let's do it.

12 MR. MARLBOROUGH: Okay.

13 THE DEPUTY CLERK: Please raise your right hand.

14 You do solemnly swear that the testimony you shall  
15 give this Court in this issue now shall be the truth, the whole  
16 truth, and nothing but the truth, so help you God?

17 THE WITNESS: Help me God.

18 THE DEPUTY CLERK: Please state your full name and  
19 spell your first name and last name slowly for the record.

20 THE WITNESS: Keletso Tebogo. K-e-l-e-t-s-o,  
21 T-e-b-o-g-o.

22 COURT CLERK: Thank you, sir. Please be seated.

23 DIRECT EXAMINATION

24 BY MR. MARLBOROUGH:

25 Q. Good afternoon, Mr. Tebogo.

1 A. Good afternoon, sir.

2 Q. How did you become acquainted with this case?

3 A. I joined this case this May.

4 Q. Why did you decide to join the case?

5 A. Because of minimum wage. I have never been paid a minimum  
6 wage, and there were some guys who were not treated the right  
7 way after joining the case.

8 Q. How were those people not treated the right way?

9 A. How is?

10 Q. You said there were some people that were not treated in  
11 the right way?

12 A. Yes.

13 Q. How were they not treated in the right way?

14 A. They were giving them hard time all the time because of  
15 joining the lawsuit, being part of the case.

16 Q. Are you employed by defendants?

17 A. Yes.

18 Q. How long have you worked for them?

19 A. Since 2005. This is the tenth year.

20 Q. What is the nature of the business?

21 A. This is a discount -- this is a multiple -- what do you  
22 call? It's a lot of company -- it's like a corporation with a  
23 lot of stores.

24 Q. Is it a chain? Is that the word you're looking for?

25 A. It's a chain, yeah.

1 Q. Have you worked at a number of the stores?

2 A. Yes.

3 Q. Have you worked at all the stores?

4 A. All of the stores, yes.

5 Q. Do you know who Mike Memon is?

6 A. I know who Mike Memon is.

7 Q. How do you know Mike Memon?

8 A. Mike Memon is the owner.

9 Q. How long have you known him?

10 A. Since I worked for the company, the past 10 years.

11 Q. Has he understood the English language as long as you've  
12 known him?

13 A. He has been speaking English language, yes.

14 MR. CHONG: Objection.

15 THE WITNESS: Plenty, ever since I've known him.

16 Q. Has he used the name Mike Memon as long as you've known  
17 him?

18 A. Yes.

19 Q. Do you know who Mohamed Doria is?

20 A. I know who Mohamed Doria is.

21 Q. Who is that?

22 A. He is the co-owner of the company.

23 Q. Is Mohamed deceased?

24 A. Yes, he is.

25 Q. Was he your boss?

1 A. He was the boss. The big boss.

2 Q. How long have you known him?

3 A. I knew him until his passing. Since 2005 until last year,  
4 the 30th of August, you know, until his passing.

5 Q. He passed when, did you say?

6 A. The 30th of August.

7 Q. Did he give you instructions as to how to perform your  
8 work?

9 A. Yes.

10 Q. Did he give other workers instructions?

11 A. Yes.

12 Q. Did he have an influence over the amount that you were  
13 paid?

14 A. Yes.

15 Q. Were there any management changes after Mohamed died?

16 A. Yes.

17 Q. What were those?

18 A. After Mohamed died, his brothers took over for his family.  
19 Because this is a partnership. His brothers took his position.

20 Q. Were some of the brothers already involved in the business?

21 A. Yes, all of them.

22 Q. Who were those people?

23 A. There is Mr. Gulan. There is --

24 Q. I'm sorry. Say that again.

25 A. Mr. Gulan.

1 Q. Gulan?

2 A. Yes.

3 Q. All right. Can you spell that?

4 A. G-u-l-l-u-m.

5 Q. Is that the last name?

6 A. Doria.

7 Q. Anyone else?

8 A. There is Mr. Usman.

9 Q. What's the last name?

10 A. Is Doria.

11 Q. Okay.

12 A. There is Mr. Salim Doria. There's Sikander Doria and Abdul  
13 Doria.

14 Q. Do you know someone named Musajee?

15 A. Yes, I know Musajee. He is the manager. He is the general  
16 manager.

17 Q. Is he a relative of the Doria family as well?

18 A. Yes. There is the brother-in-laws and the daughters.

19 Q. Do you know someone named Siraj?

20 A. I know Siraj.

21 Q. Do you know Siraj's last name?

22 A. No, I don't know his last name.

23 Q. Is he a member of the Doria family as well?

24 A. Yes.

25 Q. Is he a manager of the stores?



1 A. Yeah. He's a manager, yes.

2 Q. Do you know someone name Behlal Doria?

3 A. Yes, I know Behlal.

4 Q. What does Behlal do for a living?

5 A. Behlal -- how does Behlal doing?

6 Q. What does he do for a job?

7 A. He is with the phone company.

8 Q. Have you ever met a person named Luckenson Camille?

9 A. I did many times. I also worked with him before.

10 Q. Please repeat that.

11 A. I also worked with him before.

12 Q. You worked with him before?

13 A. Yeah, before, yes.

14 Q. When was the last time you saw Luckenson Camille?

15 A. That was around in May.

16 Q. What were the circumstances?

17 A. He was called by Mr. G to come to the pier for the

18 Pierre-Louis brothers so that he could give them pressure to

19 withdraw from the case.

20 Q. Who were the brothers?

21 A. The Pierre-Lou brothers. Josue and Peter.

22 Q. Okay.

23 A. Yeah.

24 Q. He was given to pressure them?

25 A. So that they can withdraw from the case.

1 Q. By who?

2 A. By Mr. G.

3 MR. CHONG: Objection, hearsay, your Honor.

4 BY MR. MARLBOROUGH:

5 Q. How do you know that?

6 A. He told me.

7 THE COURT: I'll let it stand.

8 BY MR. MARLBOROUGH:

9 Q. He told you --

10 A. Yes. Together with some other colleagues, because he met  
11 us and he told us why he came there.

12 Q. Did he say what he was going to do after this conversation?

13 A. Yes. He said that he has to do what they told him to do.

14 Q. He said that he intended to do what they told him to do?

15 A. What they told him to do, that's why they have to do.

16 Q. What was that that he said he intended to do?

17 A. He said he was going to make sure that they withdraw from  
18 the case. He was going to give them pressure so that they  
19 withdraw from the case. Ever since that, I never saw them  
20 again. I don't know what they said to them.

21 Q. Are you aware of other workers who have suffered pressure  
22 to withdraw from the case?

23 A. Yes.

24 Q. Are you one of those people?

25 A. Yes.

1 Q. Did you have a conversation with Mike Memon at any point  
2 about the case?

3 A. I had a conversation with Mike Memon, yes.

4 Q. What was the nature of that?

5 A. Mr. Mike Memon wanted me to withdraw from the case and want  
6 me to write a false letter to submit to court.

7 Q. What was your response to that?

8 A. I told him that I'm not going to sign that booklet.

9 Q. Who was present during that conversation?

10 A. It was me, a colleague of mine, Madi Nasoco, Mr. Mike  
11 Memon, and Mr. Usman Doria.

12 Q. And Usman Doria was with Mike on this issue?

13 A. They were together.

14 Q. And what was -- Maddi Nasoco, was that the person's name?

15 A. Yes.

16 Q. What was Maddi Nasoco's position on pattern this issue?

17 A. Maddi Nasoco was also pressured to write the letter and  
18 that time he refused to write it too.

19 Q. He refused to write the letter?

20 A. Yes.

21 Q. And you refused to write the letter?

22 A. Yes.

23 Q. At the end of that conversation, how were things left?

24 A. I told them that I would think about it.

25 Q. Okay.

1 A. Yes.

2 Q. Did you think about it?

3 A. I thought about it, because I never wrote it. Because  
4 whatever they were telling me --

5 Q. So you thought about it and decided not to write it?

6 A. Yes. Because everything he was telling that paperwork not  
7 true, so I was not supporting it.

8 MR. MARLBOROUGH: Your Honor, I'd like to admit into  
9 evidence -- we've submitted a compact disk version of this  
10 audio recording to the Court, and we have --

11 Q. Did you record that conversation?

12 MR. MARLBOROUGH: I apologize. I realized I had left  
13 a foundational element out.

14 THE COURT: It's a recording. Who made it? Under  
15 what circumstances?

16 MR. MARLBOROUGH: Correct.

17 THE COURT: How has it gotten here, et cetera.

18 MR. MARLBOROUGH: Right.

19 Q. Did you record that conversation?

20 A. I recorded the conversation.

21 Q. How did you do it?

22 A. I recorded it in my cellphone.

23 Q. Under what circumstances?

24 A. Because I didn't know what was going to happen, because  
25 that time they were -- I have learned from a colleague of mine

1 that they were giving hard time to everybody who they saw their  
2 name, and I had to record that so that I can know what was  
3 going on, if it was good or not good.

4 Q. Would you be able to identify the voices on that recording?

5 A. 100 percent, yes.

6 MR. MARLBOROUGH: Your Honor, I'd like to admit that  
7 into evidence.

8 THE COURT: What is it that you have? Do you have his  
9 cellphone?

10 MR. MARLBOROUGH: It's an electronic version of it. I  
11 believe we submitted it to the Court on a CD.

12 THE COURT: How was that made?

13 MR. MARLBOROUGH: It was made from whatever the audio  
14 file is, MP3 file that is from the phone. It's straight off of  
15 the phone item.

16 THE DEPUTY CLERK: Who did that?

17 MR. MARLBOROUGH: The audio file was emailed to us.

18 THE COURT: By?

19 MR. MARLBOROUGH: Did you email the audio file to us?

20 THE WITNESS: Yes, I emailed it, yes.

21 THE COURT: Then you converted it to this disk?

22 MR. MARLBOROUGH: Correct.

23 THE COURT: And that's your testimony?

24 MR. MARLBOROUGH: No.

25 THE COURT: It's the validity of the --

1 MR. MARLBOROUGH: Right.

2 THE COURT: All right. You received it from the  
3 witness and just mechanically transcribed it onto a disc,  
4 right?

5 MR. MARLBOROUGH: That's correct.

6 THE COURT: I'll admit it.

7 MR. MARLBOROUGH: Thank you.

8 MR. CHONG: Your Honor, am I going to have an  
9 opportunity to question the witness as far as this  
10 conversation?

11 THE COURT: Sure. On the subject of the tape, yes.

12 MR. CHONG: Yes.

13 THE COURT: Sure.

14 VOIR DIRE EXAMINATION

15 BY MR. CHONG:

16 Q. Mr. Keletso, why did you make this recording? What was  
17 your intent in making this recording?

18 A. I made this recording because my colleagues found out they  
19 were telling us that they were forced.

20 Q. Who was forced?

21 A. My colleagues. The my coworkers who have entered this --  
22 who were involved in the case, they was forced to withdraw from  
23 the case.

24 Q. So who initiated that conversation with Mike Memon? Was it  
25 you?

1 A. Mr. Mike Memon called me to his office.

2 Q. So when he called you to his office, were you holding your  
3 cellphone in your hand; in your right hand or your left hand?

4 A. My cellphone was in my pocket.

5 Q. In your where?

6 A. My pocket.

7 Q. Your pocket.

8 A. Yes.

9 Q. So if your cellphone is in your pocket, you made the  
10recording when the cellphone was in your pocket?

11 A. Yes.

12 Q. Who else was in the office with you?

13 A. That was Mr. Mike Memon, Mr. Usman Doria, me, and Mike  
14Nasu.

15 Q. When you were making that recording and the phone was in  
16your pocket, how can the phone make a clear recording?

17 A. It can make a clear recording, yes.

18 Q. But if it's in your pocket, is the microphone right on --  
19literally on the phone?

20 A. The microphone is where?

21 Q. The microphone on the phone. It's on the phone, correct?

22 A. Yes.

23 Q. So if you stick the phone in your pocket --

24 A. Yes.

25 Q. -- isn't that going to muffle the recording?

1 A. Yes. It does, yes.

2 Q. So it's fair to say that the recording might not be clear,  
3 correct?

4 A. It's 100 percent clear. 100 percent clear.

5 Q. Did you know that your attorney submitted a transcript of  
6 that discussion and there are sections marked inaudible?

7 A. Yes.

8 Q. Did you know that there was 150 lines in that transcript  
9 marked inaudible?

10 A. Yes.

11 Q. You knew that.

12 A. Yes.

13 Q. So if it's marked inaudible, what does that mean?

14 A. Marked inaudible.

15 Q. Yes. If the transcript has a line which is marked  
16 inaudible, what does that mean?

17 There's also 150 lines or about -- how many lines is  
18 that? There's also lines in the transcript from your recording  
19 that say "crosstalk". What does crosstalk mean?

20 A. Crosstalk.

21 Q. What does that mean? It's your recording.

22 A. Yes, that's my recording, yes.

23 Q. What does crosstalk mean?

24 A. I think the best way is to play the recording so that we  
25 can tell -- we will see the difference between everything.



1 Q. There are significant portions from the transcript from  
2 your attorney from your recording that say "foreign language".

3 A. Yeah.

4 Q. Was there a foreign language being spoken during that  
5 conversation?

6 A. The foreign language was spoken by Mr. Mike Memon and  
7 Mr. Usman Doria. Those are the ones who can answer about that  
8 one.

9 Q. Did you speak in a foreign language to Mike Memon?

10 A. Foreign language is what -- it was spoken between Mr. Memon  
11 and Mr. Usman Doria. I don't speak their language.

12 Q. So you spoke English.

13 A. Yes.

14 Q. How long was the conversation?

15 A. Over 20 minutes.

16 Q. Over how long?

17 A. Over 20 minutes.

18 Q. 22 minutes?

19 A. Over 20 minutes.

20 Q. Okay.

21 A. Yes.

22 Q. In exhibits submitted by your attorneys, Docket 102-2 on  
23 the docket --

24 MR. CHONG: Your Honor, could I have this marked?

25 Judge?

1 THE COURT: I don't have it. I don't have anything.

2 MR. CHONG: Could I have this exhibit marked and can I  
3 show it to the witness?

4 THE COURT: Sure. How do you want to mark it?

5 MR. CHONG: We'll mark this as D1.

6 THE COURT: Okay.

7 MR. CHONG: Can I approach and show this to the  
8 witness?

9 THE COURT: Sure.

10 BY MR. CHONG:

11 Q. Mr. Keletso, do you recognize this document?

12 A. Yes.

13 Q. Can you tell me what it is?

14 A. This is the transcript of the audio.

15 Q. Okay.

16 A. Yes.

17 Q. Can you flip through it and make sure that's the transcript  
18 of your audio?

19 A. You want me to go through everything?

20 Q. I want you to look through the entire document and confirm  
21 that that's the transcript from your audio tape.

22 A. That, I went to it before. So you want us to go through  
23 the tape?

24 Q. No. I want you to look through the document and confirm  
25 that that's the transcript from your audio recording.

1 A. Yes. I went through it before already.

2 Q. Okay, good. All right. So take a look at this first  
3 page here. The first person identified, it says "Unknown".

4 Who is that -- why is that -- who is that person  
5 unknown?

6 A. This one I can only tell if the audio is on so that I can  
7 identify the voices.

8 Q. Okay.

9 A. Yes.

10 Q. So you have no idea --

11 A. There are the times when I was working down there when my  
12 camera was on. So there are the people who with us talking.

13 Q. So you don't know who's speaking there?

14 A. Some of the people were the people inside the store,  
15 because I was working where they were people until I worked  
16 where I was caught.

17 Q. So in lines 1 through 7, the speaker is identified as  
18 "Unknown". Do you know who was speaking there?

19 A. Listen, when I was -- my phone was in my pocket. So I was  
20 working with my phone on, so there were people talking around.  
21 So those are another part of the conversation.

22 Q. I'm going to turn two page 3, line 8. What does that say  
23 in blue highlight right there?

24 A. "You're recording me. You go like this. I have a hearing  
25 tomorrow. Okay?"

1 Q. Can you read this? Do you understand what that says?

2 A. Yes.

3 Q. What does that --

4 A. I understand.

5 Q. What does that say?

6 A. This we can only tell if it's in the audio, because I don't  
7 know what all this is.

8 Q. Okay. So that says "inaudible", correct?

9 A. That's what they do, yes.

10 Q. Okay. What about line 23? Does this say "inaudible", as  
11 well?

12 A. Which one.

13 Q. Right there where my finger is on line 23. Does that say  
14 "inaudible"?

15 A. Yes.

16 Q. Page 4, line 8. Does that say "inaudible" right there?

17 A. That is -- yes.

18 Q. Okay.

19 MR. MARLBOROUGH: Your Honor, I don't think these  
20 questions relate to the minimal foundation requirements for us  
21 to be able to listen to the tape.

22 THE COURT: Sustained.

23 MR. CHONG: Your honor, it goes to the quality of the  
24 recording.

25 THE COURT: Okay, good.

1 BY MR. CHONG:

2 Q. Can you explain to me, after you recorded this  
3 conversation --

4 A. Yes.

5 Q. -- what did you do with the recording next?

6 A. I listened to the recording, and I emailed it so that they  
7 can filter.

8 Q. Who did you email it to?

9 A. I emailed it to my attorneys.

10 Q. To who?

11 A. My attorneys.

12 Q. Which attorney?

13 A. All of them.

14 Q. Who is all of them, so we're clear?

15 A. Okay.

16 Q. Because we need to get a chain of custody.

17 A. Okay. I emailed it to Christopher.

18 Q. Is there anybody else that you emailed it to?

19 A. He have to -- I told him to do it to other lawyers too.

20 Q. Okay.

21 A. Yes.

22 Q. Who did this transcription -- this document right here, who  
23 typed out the this transcription of the audio?

24 A. They did it and they call me and I confirmed.

25 Q. After you sent the audio to your -- what was the date that

1 you sent this audio to your attorney?

2 A. That was a day before -- before -- that was the day before  
3 they were supposed to go to court and the court was postponed.

4 Q. What day was that?

5 A. That was -- oh, the date? But that was the day before the  
6 Court. Because Mr. Mike, in the audio, he say, "I am going to  
7 court tomorrow." That was the time he was supposed to go to  
8 the courts.

9 Q. Well, how many days before that court date was this  
10 recording made?

11 A. It was a day before -- it was -- the following day was  
12 supposed to be the court hearing.

13 Q. So you're saying this recording was made before the court  
14 hearing?

15 A. Yes.

16 Q. Are you referring to the May 21st court hearing?

17 A. The date was -- oh, the time they postponed the court. I'm  
18 not sure exactly about the date, but I know it was around May,  
19 yes.

20 Q. So was that your motivation to make that recording, because  
21 you knew there was a court date the next day?

22 A. I wanted to see whether the defendants are following the  
23 lines which were given to them by the judge.

24 Q. I'm sorry?

25 A. I wanted to see -- I was recording so that we can see if

1 they are going through the lines they were given, the orders  
2 they were given by the judge.

3 Q. Did anybody tell you to make that recording?

4 A. Nobody told me.

5 Q. Has this recording been edited by anybody?

6 A. Nobody edited the audio. It's 100 percent.

7 Q. How do you know that?

8 A. Because I listened to it. I recorded it, and everything is  
9 like that, 100 percent.

10 Q. Do you know if your attorney had the tape or the recording  
11 sent to any outside parties for review or editing or recording?

12 A. Do I know what?

13 Q. Do you know if the tape was sent to any third parties other  
14 than your attorney?

15 A. No.

16 Q. Did your attorney send it to anybody?

17 A. They -- yes. They talked about -- they talked to me about  
18 it and I authorized it. They were asking if they can do it,  
19 and I say if they want to do it that they can do it, no  
20 problem.

21 Q. Do what?

22 A. If somebody need to do it -- you know, they had to ask  
23 me -- I say, "We ever need it, they can transfer it because  
24 it's 100 percent." I -- you know.

25 Q. What kind of cellphone do you have?

1 A. Samsung S4.

2 Q. So how long is the recording time on your S4?

3 A. It depends on the memory too.

4 Q. Is that the phone that you had at the time you made this  
5 recording?

6 A. That time I didn't have a -- I had a lot of space in my  
7 memory, in my phone memory.

8 Q. Is it the same phone?

9 A. Yes.

10 Q. Do you always record conversations with a phone in your  
11 pocket?

12 A. Yes.

13 Q. What other conversations do you record when your phone is  
14 in your pocket?

15 A. Any conversation I want to record, I can record.

16 Q. After you made that recording, how long was it before you  
17 sent it to your attorney?

18 A. After I reviewed it.

19 Q. So was that one hour later, or ten days later, a week  
20 later?

21 A. No, that was an hour later.

22 Q. An hour later.

23 A. Yes, about an hour. Even maybe less than an hour later.

24 Q. So an hour later after that conversation, you sent it to  
25 your attorney, Chris Marlborough.



1 A. Yes, so that they can review it.

2 MR. CHONG: Your Honor, I have nothing further.

3 Based on the witness's testimony, your Honor, it's  
4 questionable of whether the audio tape is accurate. The  
5 witness has testified that he had this cellphone, which is  
6 not --

7 THE COURT: I heard it. I've been here. Yes. Okay.  
8 What's next?

9 MR. MARLBOROUGH: Your Honor, the tape is -- you said  
10 it was more than 20 minutes long, Mr. Tebogo?

11 THE WITNESS: Yes.

12 MR. MARLBOROUGH: We could play portions of the tape  
13 or we can play --

14 THE COURT: Do you want it admitted into evidence?

15 MR. MARLBOROUGH: We'd like to admit it into evidence,  
16 your Honor.

17 THE COURT: How would you like to designate it?

18 MR. MARLBOROUGH: Plaintiff's 1.

19 THE COURT: It's admitted, and we'll be in recess  
20 until 2:15.

21 MR. MARLBOROUGH: Thank you, your Honor.

22 (Recess)

23 MR. MARLBOROUGH: Your Honor, plaintiffs would like to  
24 recall Mr. Tebogo following the short break.

25 THE COURT: Good afternoon. You're still under oath.

1 THE WITNESS: Yes.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. MARLBOROUGH:

4 Q. Please have a seat on the stand.

5 Mr. Tebogo, the Judge just said you're still under  
6 oath, meaning we don't need to have you sworn in again, but we  
7 are going to ask you some more questions.

8 A. Okay.

9 Q. The judge had admitted into evidence the recording right  
10 before the break, and now I want to play some of that for you  
11 and ask you some questions about it. Okay?

12 A. Yes.

13 Q. I'm going to pause at points during the playback to ask you  
14 some questions.

15 A. Yes.

16 (Audio played)

17 Q. Do you recognize the person who said, "This is my name?"

18 A. Yes.

19 Q. Who is that person?

20 A. That was me.

21 Q. What was your name referring to? What were you referring  
22 to when you said, "This is my name?"

23 A. Because he was holding the papers with my name, the case  
24 papers.

25 MR. CHONG: I'm sorry, your Honor, if I may. Since

1 he's playing this audio, could he refer to the section in the  
2 transcript that we all have in front of us?

3 THE COURT: No, we all do not have it in front of us.  
4 It hasn't been admitted. I don't have it.

5 MR. CHONG: Well, we could mark this as an exhibit?

6 THE COURT: Counsel, do you want the transcript  
7 admitted?

8 MR. MARLBOROUGH: Yes, your Honor, we would like the  
9 transcript admitted. I believe as Defendant's 1.

10 THE COURT: Let me ask the defense. Do you agree it's  
11 an accurate transcript?

12 MR. CHONG: Do I agree, your Honor?

13 THE COURT: Yes.

14 MR. CHONG: I have no way of knowing if it's an  
15 accurate transcript, your Honor.

16 THE COURT: Well, somebody's got to testify as to how  
17 it was made. I mean, do you want me to take it on faith?

18 MR. MARLBOROUGH: No, we wouldn't. We were going to  
19 work off the audio. He requested that we introduce the  
20 transcript.

21 THE COURT: You don't want to introduce the  
22 transcript, right?

23 MR. CHONG: Your Honor, I submit it as an exhibit.  
24 I'd like to move it into evidence, that transcript. It's, I  
25 think, we marked it as D1.

THE COURT: Well, in other words, you agree that it's accurate?

MR. CHONG: No, I do not agree that it's accurate, your Honor, I'm merely submitting it as an exhibit. I'd like to compare it to this audio transcript, which I've never heard.

THE COURT: Well, I guess the answer is, the state of this record, I guess I will not admit it.

MR. SCHULMAN: Your Honor, my name is Jonathan Shulman for the plaintiffs. I'd like to try to get this admitted with Mr. Tebogo.

VOIR DIRE EXAMINATION

BY MR. SCHULMAN:

Q. Mr. Tebogo?

A. Yes, sir.

Q. The transcript that defense counsel asked you about, I have a copy of that in my hand.

A. Yes.

Q. Do you know what this is?

A. Yes.

Q. It says here it is a transcription of a May 20, 2015 conversation between Keletso Tebogo, Maddi Nasoco, Defendant Michael Memon, and Usman Doria.

A. Correct.

Q. Have you reviewed this?

A. I did, yes.

1 Q. When did you review it?

2 A. I'm not sure about the date, but I reviewed it before, yes.

3 Q. Do you know what this was transcribed from?

4 A. Yes, from the audio.

5 Q. From the audio. Which audio?

6 A. The one which it was me, Mr. Memon, Mr. Maddi, and  
7 Mr. Usman Doria.

8 Q. Do you believe that this accurately represents the audio  
9 recording that Mr. Marlborough plans to introduce?

10 A. 100 percent.

11 MR. SCHULMAN: Your Honor, may I admit this Defense  
12 Exhibit 1 as Plaintiff's Exhibit 1, as well?

13 THE COURT: Well, Plaintiff's 1 is the tape. 1T is  
14 the transcript. It's admitted.

15 MR. SCHULMAN: Thank you, your Honor.

16 MR. MARLBOROUGH: I'm going to play a portion of the  
17 audio recording starting at the two minutes end.

18 THE COURT: May I have a copy?

19 MR. MARLBOROUGH: Of the audio recording?

20 THE COURT: No, of the transcript. This is the  
21 transcript attached to the affidavit, counsel's affidavit,  
22 right?

23 MR. SCHULMAN: Yes, your Honor.

24 THE COURT: Okay. Yes.

25 MR. CHONG: Your Honor, before he plays this, can he

reference the part of the transcript, now that your Honor has it, so that we can follow what sections he's referring to?

THE COURT: Well, at the moment, we just had the opening session. Go ahead.

MR. MARLBOROUGH: I'm playing a portion of the transcript from 240.57, and I'm asking Mr. Tebogo to identify the voices for the moment.

(Audio played)

Q. When you said that, "This is my name," that's you?

A. Yes, that was me.

(Audio played)

Q. Who asked you if you signed it?

A. That was Mr. Mike Memon.

(Audio played)

Q. Is there a reference on this tape to two criminals?

A. Yes.

Q. Do you know who the two criminals refers to?

A. No.

(Audio played)

Q. Who is Mr. G?

A. Mr. G is Mr. Gulan Doria.

Q. He's a defendant in this case?

A. Yes, he is.

(Audio played)

Q. Is that Mr. Mike asking you questions about your attorney?

1 A. That was Mr. Mike, sir.

2 Q. Are you aware that there was a temporary restraining order  
3 in place at the time concerning statements --

4 A. Yes.

5 Q. -- about your participation in a lawsuit and with your  
6 attorneys?

7 A. Yes.

8 Q. Do you have reason to believe that Mr. Mike was aware of  
9 that?

10 A. Yes.

11 MR. CHONG: Objection.

12 THE WITNESS: Yes.

13 Q. What is the basis for your reason to believe that?

14 A. Oh, because he was given court orders before.

15 (Audio played)

16 Q. Who is the person that said, "You know that what it is,  
17 right?"

18 A. That is Mr. Usman Doria.

19 Q. Usman Doria. Is Usman Doria here today?

20 A. Yes, he's here today.

21 Q. Can you point him out to me?

22 A. There's a man all at the back, number two in the row.

23 Q. Is Mr. Mike here also?

24 A. He is also here.

25 Q. Can you point him out to me?

1 A. Mr. Mike is behind the attorney.

2 Q. Mr. Mike raised his hand and I saw who he was, so thank  
3 you.

4 A. You're welcome.

5 (Audio played)

6 Q. Do you know who the attorney who he's referring to was?

7 A. I don't know who he was referring to, but he said the same  
8 attorney who is representing us.

9 Q. Representing you and the criminals?

10 A. Yes, that's what he said.

11 (Audio played)

12 Q. Did he say he had a hearing tomorrow?

13 A. He said he has to go to a hearing tomorrow.

14 Q. And he needs your help?

15 A. And he needs my help.

16 (Audio played)

17 Q. Was Mr. Memon asking you to lie?

18 A. He was asking me to write a false document as if I said so,  
19 which was not correct, because he was telling me that the  
20 following day his attorney had a court hearing.

21 Q. And is he talking about what's on that document?

22 A. Yes, he did.

23 Q. And did he show you a document?

24 A. He showed me the document.

25 MR. MARLBOROUGH: I'd like to have this marked,



1 please, as Plaintiff's 2. Do you need one for the Court?

2 I'd like to show the witness the document?

3 THE COURT: Sure.

4 BY MR. MARLBOROUGH:

5 Q. Have you seen this document before?

6 A. Yes, I saw this document before.

7 Q. What is this document?

8 A. This document was presented to me by Mr. Mike Memon so that  
9 I can put my name here to certify that I am not involved in  
10 this lawsuit, and my identification was theft and misused, my  
11 information, therefore, I didn't sign any paperwork. The  
12 statement is prepared by myself voluntarily without any pursuit  
13 or obligation. Yours sincerely, so and so. He even told me I  
14 can put another more paper to support this.

15 Q. Did you just read that full document out to me verbatim?

16 THE COURT: Just a second. Not until it's in  
17 evidence. Do you want to introduce it?

18 Q. Is this an accurate copy of a document that you saw?

19 A. This is 100 percent of a copy.

20 Q. Is it a photographic copy?

21 A. This was the paper, and I made a copy of it with my phone.

22 Q. So you personally made the copy with the phone?

23 A. Yes, because it was presented to me.

24 Q. And what did you do with the copy?

25 A. I sent it to the attorney so that they can see it.

1 Q. To me?

2 A. Yes.

3 Q. It looks like the document looked on the day that you took  
4 the picture?

5 A. Yes.

6 MR. MARLBOROUGH: Your Honor, I'd like to move this  
7 into evidence.

8 THE COURT: As?

9 MR. MARLBOROUGH: As Plaintiff's Exhibit 2.

10 THE COURT: It's admitted.

11 Q. And this is the document that Mr. Mike is referring to on  
12 the audio?

13 A. That's correct.

14 Q. Just to back up a little bit. Mr. Mike is referred -- is  
15 he often referred to -- Michael Memon, is he often referred to  
16 as Mr. Mike?

17 A. Mr. Mike Memon gave me this paper to sign.

18 Q. And Gulan Doria, does he have a nickname?

19 A. With this paper?

20 Q. No. I was just asking in general, does Gulan Doria have a  
21 nickname. Do people call him something in the store?

22 A. They call him Mr. G.

23 Q. And Mohamed Doria, did he have a name that people called  
24 him?

25 A. Mr. Mohamed.

1 (Audio played)

2 Q. Can you tell me what was the reference to deducting the  
3 taxes?

4 A. Excuse me?

5 Q. Was there a reference to deducting from taxes?

6 A. Yes, that's what he says. He say he cannot -- he is going  
7 to deduct my taxes if I sign this paper.

8 Q. If you do sign the paper --

9 A. Yeah. Can you play it again, please, the last part?

10 Q. Yeah, sure.

11 (Audio played)

12 Q. What were the conditions that you're referring to?

13 A. To pay at least minimum wage. Those are the better  
14 conditions. And if I work more than that, I have to get  
15 something, like overtime.

16 Q. How many hours of work a week were you working?

17 A. I was working 66 hours, and then they cut me to 60 hours.  
18 Now they cut it again to 30 hours. Last week I went 23 hours.

19 Q. Did you ever get paid overtime?

20 A. Never.

21 Q. Did you ever get paid minimum wage before last week?

22 A. For the first time last Saturday in ten years.

23 Q. I'm sorry. Did you say Chinese?

24 A. In ten years.

25 Q. In ten years.

1 A. Yes.

2 Q. If he were to improve the conditions, that would mean he'd  
3 be out of business if he paid you minimum wage? Is that your  
4 interpretation?

5 A. That is what he said.

6 Q. And he'd be out of business if he paid you overtime? Is  
7 that what he said?

8 A. That is what he said.

9 (Audio played)

10 Q. Did you hear him state the number of employees?

11 A. Yes.

12 Q. How many employees did he say he had?

13 A. He has hundred employees.

14 (Audio played)

15 Q. Who is that that said, "Stabbing in the back us?"

16 A. That was Mr. Usman Doria.

17 (Audio played)

18 Q. Is Usman Doria a stock boy?

19 A. No, he's the manager.

20 (Audio played)

21 Q. Did he say you go from store to store?

22 A. Yes.

23 Q. Is that part of your job responsibilities?

24 A. That's part -- yes, I go to store -- that time I was going  
25 from store to store to make orders for all the stores.

1 Q. Do you still do that?

2 A. No, I don't do that.

3 Q. Why not?

4 A. They have promoted me and they cut my hours.

5 Q. Are you a person who knows a lot of people who work at the  
6 discount stores?

7 A. I'm knowing every person working in discount stores.

8 Q. More so than most of the other workers, or the same?

9 A. Most of them are the same workers.

10 Q. No, no. Do you know more about who works at the stores  
11 than the average worker?

12 A. Yes. I know each and every person per store.

13 Q. Is that because you go from store to store doing your job?

14 A. Before I go from store to store, so I meet those people all  
15 the time.

16 (Audio played)

17 Q. Is this a reference again to two criminals --

18 A. Yes.

19 Q. -- who ran away?

20 A. That's what he said.

21 Q. Do you know what that's in reference to?

22 A. No.

23 Q. Does it have anything to do with whether or not you deserve  
24 to be paid minimum wage and overtime?

25 A. No.

1 (Audio played)

2 Q. Was there a reference to an arrest?

3 A. Which one?

4 Q. Did you hear a reference to an arrest?

5 A. Oh. Can you play that part again?

6 Q. I can.

7 (Audio played)

8 Q. That was the portion I was talking about. Did you hear  
9 anything about an arrest on that? We can move on.

10 A. Yeah. Okay. You can play it for the last time.

11 Q. Okay.

12 (Audio played)

13 Q. I'm just going to ask you the same question about, did you  
14 hear a reference to an arrest?

15 A. Yes, yes.

16 Q. The person would be -- did he say when that person would be  
17 arrested?

18 A. He said he took 9,000 from him.

19 Q. Okay.

20 A. Yes.

21 Q. Do you know what that's in reference to?

22 A. No.

23 (Audio played)

24 Q. Is that true? Do you know more information about anyone in  
25 the store?

1 A. According to Mr. Mike, yes.

2 Q. Among the work nonmanagement personnel?

3 A. Oh, can you ask --

4 Q. Do you have a lot of knowledge about the stores?

5 A. Yes, I do.

6 Q. Among nonmanagement?

7 A. Yes.

8 Q. You're not an owner of the store.

9 A. Yes.

10 Q. You're not a manager of the individual store.

11 A. Yes.

12 Q. But for the average worker, you know more than the average  
13 worker about the business.

14 A. Yes.

15 MR. CHONG: Objection.

16 THE WITNESS: 100 percent.

17 (Audio played)

18 Q. Is that a new voice on the tape?

19 A. A new?

20 Q. Can you tell me who Mr. Mike is talking to right there?

21 I'm going play it again.

22 (Audio played)

23 Q. Is there a different voice on the tape?

24 A. That is a different voice from Maddi Nasoco.

25 Q. Was he present during the whole meeting?

1 A. Yeah, he was present in the meeting.

2 Q. Who is Maddi Nasoco?

3 A. He is a plaintiff in the case, and is still working.

4 (Audio played)

5 Q. What is Mr. Nasoco saying at that point?

6 A. Yeah. Mr. Nasoco say he don't want to sign anything.

7 Q. So if he did subsequently sign something, it would be  
8 inconsistent with what he just said here?

9 A. Yes.

10 (Audio played)

11 Q. Can you tell me what that's in reference to, putting  
12 everyone in the book?

13 A. He say his attorney said so to put everybody in the book.

14 Q. What does putting everyone in the book mean?

15 A. Start to put everybody -- what do you call -- start to  
16 record everybody's name and everything; time, taxes, and all  
17 those kind of stuff.

18 Q. Have they done that?

19 A. Not yet.

20 Q. Not yet? And when was this tape from? May?

21 A. Which one?

22 Q. This tape is from May?

23 A. Yeah, that was the day before the hearing.

24 (Audio played)

25 Q. Do you have reason to believe that Mr. Memon pays payroll



1 taxes for you for your employment?

2 A. No.

3 Q. Did he just say he pays taxes?

4 A. That's what he say.

5 Q. Does he make contributions to your social security?

6 A. No.

7 (Audio played)

8 Q. Does he pay unemployment insurance?

9 A. No.

10 Q. Does he pay worker's comp insurance?

11 A. No.

12 Q. What happens if someone's injured on the job?

13 A. They don't owe you.

14 Q. Have you ever seen an incident where that occurred?

15 A. Yes. I have seen one time. Once they hired a Puerto Rican  
16 guy. He collapsed in the corner.

17 MR. CHONG: Your Honor, I'm going to object to this  
18 line of questioning.

19 THE COURT: Sustained.

20 (Audio played)

21 Q. Is that Usman Doria also asking about your lawyers?

22 A. Yes.

23 Q. Do you have reason to believe that Usman Doria knew about  
24 the order not to talk about lawyers?

25 A. Oh, all of them they knew.

1 Q. How do you know that Usman Doria knew?

2 A. Because --

3 MR. CHONG: Objection, your Honor. It's asking the  
4 witness to testify about somebody else's knowledge.

5 THE COURT: Sustained.

6 BY MR. MARLBOROUGH:

7 Q. What reason do you believe to have? Has he said anything  
8 about the order?

9 A. No. Because the orders were laid against them before he  
10 knew it. Since May 12, the judge gave them the orders.  
11 May 12th.

12 (Audio played)

13 Q. Did he say there was more merchandise at a certain time?

14 A. Yes.

15 Q. What time was that? Can I play it again?

16 A. Yes.

17 MR. CHONG: Your Honor, I'm going to object to the  
18 replaying --

19 THE COURT: That is sustained.

20 MR. CHONG: And the leading questions.

21 THE COURT: Sustained.

22 (Audio played)

23 MR. CHONG: You're not -- he just ruled on that,  
24 you're not able to play that back.

25 (Audio played)

1 MR. CHONG: Excuse me, Chris.

2 MR. MARLBOROUGH: We're not playing it back.

3 MR. CHONG: You need to stop that.

4 MR. MARLBOROUGH: We're not replaying anything, we're  
5 continuing the tape.

6 MR. CHONG: Okay. Go ahead.

7 (Audio played)

8 Q. Can you tell me what was just said there?

9 A. Yeah. Mr. Mohamed used to buy, but not like before.

10 Q. And Mohamed was manager of the business?

11 A. Yeah. That was the big boss. Not the manager, big boss.

12 Q. What sort of things did he handle?

13 A. Which one?

14 Q. What did Mr. Mohamed handle?

15 A. He was making the orders, and each and every Saturday I was  
16 going through the inventory to give it to him. That was one of  
17 the jobs which I have to do. Because I am the one who was  
18 going to the stores -- I don't know when the start days -- what  
19 is needed and what is not needed.

20 Q. What about workers' pay?

21 A. All of them, they know what workers' paid.

22 Q. Mohamed was involved in that?

23 A. That is the boss.

24 (Audio played)

25 Q. Did you hear that last sentence?

1 A. Yes.

2 Q. What did he say?

3 A. He was reading this paper. He say the statement was not  
4 prepared by myself voluntarily without any pressure or  
5 obligation.

6 Q. Was that true?

7 A. That was false.

8 (Audio played)

9 Q. What happened after that conversation?

10 A. After that conversation, I walked in the middle of the  
11 store, and Mr. Usman Doria called me, he say, I have to know  
12 the consistencies of not signing this paper. I'm going to get  
13 fired after this case is closed.

14 MR. CHONG: Objection, your Honor.

15 THE COURT: Overruled.

16 BY MR. MARLBOROUGH:

17 Q. Did the hearing take place that was referenced in the --

18 A. No, it was postponed.

19 Q. Did you continue to work at the store after the hearing?

20 A. I continue to work in the stores, but they cut my time more  
21 and more.

22 Q. Did you get suspended at any point in time?

23 THE COURT: I'm sorry?

24 BY MR. MARLBOROUGH:

25 Q. Did you get suspended at any point in time?

1 A. Yes. I was suspended after the Memorial Day. I came to --  
2 they told me -- Mr. G told me to come at 12:00. And when I got  
3 there, he made me stand for two hours. After that, he told me  
4 to go. From there, they start to cut my time, time, time all  
5 the time.

6 Q. At that time, prior to this conversation, how many hours a  
7 week were you working?

8 A. That time I was working 60 hours.

9 Q. Up until late July, July 25th, how many hours were you  
10 working at that --

11 A. I was -- they cut my time to 30 hours, sometimes to 22.  
12 Like last weekend I worked 23 hours.

13 Q. Was there another court hearing after this?

14 A. Which one?

15 Q. You said the court hearing was postponed?

16 A. Yes.

17 Q. Was there another court hearing?

18 A. Yeah. There was another court hearing which was in Foley.  
19 40 Foley Street.

20 Q. And you attend that hearing?

21 A. Yes, I attend that hearing.

22 Q. Were you called to the witness stand, as you are now?

23 A. Yes.

24 Q. Did you sit down in the witness box?

25 A. Yes.

1 Q. Did you testify about the case?

2 A. That time I just took the stand, I was not asked questions.

3 Q. Do you know what rulings came out of that hearing?

4 A. Excuse me?

5 Q. What the judge did at that hearing?

6 MR. CHONG: Objection, your Honor.

7 THE COURT: Sustained.

8 THE WITNESS: Yes.

9 MR. CHONG: Legal conclusions.

10 THE WITNESS: Yeah. The judge wanted them to calm the  
11 situation down, which they never did even after the hearing.  
12 Everything continued as usual.

13 MR. CHONG: Your Honor.

14 THE COURT: I'll let it stand.

15 BY MR. MARLBOROUGH:

16 Q. Did management ever talk to you about your testimony?

17 A. There was the other day when I was talking to Mike,  
18 suddenly I was called Mike. We were in the --

19 Q. Michael is a coworker?

20 A. Is a coworker, yes.

21 Q. Is Michael is not a manager?

22 A. No, no. I was working with Michael, and Michael was asking  
23 me -- I was telling Michael that I want to try to do as fast as  
24 possible because I'm leaving at 5:00. Michael ask me, "When  
25 are you leaving at 5:00?" I told him Michael that I was not

1 supposed to leave at 5:00, but they cut my hours. He asked me,  
2 "Who cut your hours?" I said, "The management cut my hours,  
3 and the judge told them not to cut nobody's hours until the  
4 case is finished."

5 So Usman came from behind and told me that I took  
6 advantage of the tape, which I submitted to the Court. That  
7 was in the third floor of Bergen Discount Store.

8 Q. Do you know who Daniel Rodriguez is?

9 A. I known Daniel Rodriguez.

10 Q. Were you present on Daniel Rodriguez's last day of  
11 employment?

12 A. Yes, I was present.

13 Q. Was Daniel Rodriguez an employee of the discount stores?

14 A. Yeah, he was an employee.

15 Q. Is he no longer an employee?

16 A. Yeah. He was fired.

17 Q. Were you present on the day that he was fired?

18 A. I was present when -- that day.

19 Q. Can you tell me what happened on that day?

20 A. Mr. Usman Doria say Daniel Rodriguez pulled a knife on him.

21 So Mr. Usman Doria came outside, and he told me he know I

22 cannot tell his lawyer and I cannot be in his side.

23 I told him that if I saw what happened, I was going to  
24 be in your side, because that's a weapon.

25 Then they called the police. The police came, they

1 come, they do their thing, and they say -- they search, they  
2 ask the guy the questions, and the police told them that  
3 there's no proof.

4 Same date, Mr. Usman Doria went to the prison with  
5 Jose Ramos to try to press charge, and then they told them that  
6 the evidence is not enough.

7 And Mr. Mike Memon, in that afternoon, he came, he  
8 pose with the police, he asking this --

9 Q. I'm sorry. What? He came and did what?

10 A. He came and posed with the police to take the pictures.

11 Q. Posed with the police?

12 A. Yeah. He say -- and he was saying, "This case is done."

13 Q. You personally witnessed this?

14 A. I saw that. I was not only by myself, even one of the  
15 gentleman, Kofei, was there.

16 Q. Who is that person that was there?

17 A. Joseph Kofei was one of the guys who were there, who they  
18 call Usman, too.

19 Q. And you heard the statement?

20 A. Which one?

21 Q. You heard the statement that Mr. Mike made personally?

22 A. No.

23 Q. You said he made a statement about the lawsuit?

24 A. He said what?

25 Q. You said he posed with police.



1 A. Yes. He was posed with the police, and he said in his own  
2 ways, he said, "This case is done." He wanted -- they wanted  
3 them to take the pictures of that incident so that they can go  
4 do --

5 Q. You personally heard him say that?

6 A. I personally heard him saying that, because I was with them  
7 outside when it happened.

8 Q. Do you know who Christopher Bruce is?

9 A. I know Christopher Bruce.

10 Q. How do you know Christopher Bruce?

11 A. Christopher Bruce, we work together in Buy & Saves. And  
12 they moved him to 3rd Avenue. They mostly call him Jerry.  
13 That was the most popular name.

14 Q. Did Chris Bruce tell you what he planned to do in  
15 connection with this lawsuit?

16 MR. CHONG: Objection, your Honor.

17 THE COURT: Sustained.

18 MR. MARLBOROUGH: Your Honor, I think it's state of  
19 mind evidence, if it's objection on hearsay grounds. Is it  
20 still sustained?

21 THE COURT: Next question.

22 MR. MARLBOROUGH: Okay.

23 Q. Do you know whether Christopher Bruce was subject to  
24 similar interrogations that you were subject to?

25 A. Yes, I know.

1 MR. CHONG: Objection, your Honor.

2 THE COURT: Overruled.

3 Q. Have you ever seen a document --

4 A. Yes, I did.

5 Q. -- signed by Christopher Bruce --

6 A. Yes, I did.

7 Q. -- concerning this lawsuit?

8 A. Yes, I did.

9 Q. What was that document?

10 A. The document was issued to Christopher Bruce by Mr. G to  
11 withdraw from the thing. Because Christopher Bruce is a sick  
12 guy. He has got a open -- he had an open heart surgery before,  
13 so he cannot take pressure. Pressure, pressure, pressure. And  
14 he was even told, he was even from this day, good Christmas  
15 bonus if he withdraw. They put him, they pressurized him until  
16 he withdraw.

17 Q. And did he withdraw?

18 A. Yes, he did.

19 Q. How do you know that?

20 A. He told me.

21 MR. MARLBOROUGH: I'd like to mark this exhibit. May  
22 I give a copy to the witness?

23 THE COURT: Sure.

24 BY MR. MARLBOROUGH:

25 Q. Have you seen this document before?

1 A. Yes, I saw this document before.

2 Q. What's the name -- the FROM on the document?

3 A. Christopher -- it was coming from Christopher M. Bruce to  
4 Mr. Mike.

5 Q. Is that document notarized?

6 A. It is notarized in the bottom.

7 Q. How did you first see this document?

8 A. A colleague of mine who was handed this paper, too, because  
9 he didn't want to withdraw. They told him to write the same  
10 letter with his own writing and give it to Mr. G.

11 Q. Do you know when that occurred?

12 A. That was like last week Thursday -- Wednesday -- that was  
13 last week. This happened last week.

14 MR. MARLBOROUGH: Your Honor, we'd like to move for  
15 admission as a self-authenticating document because the  
16 document is notarized --

17 MR. CHONG: Objection, your Honor.

18 MR. MARLBOROUGH: -- based on the foundation  
19 established.

20 THE COURT: Sustained.

21 MR. CHONG: Thank you.

22 Q. Are you aware of other workers who have had their hours  
23 cut?

24 A. Yes. I know some of the -- yeah. Only the plaintiffs.

25 Q. Can you tell me the names of some of the people who had

1 their hours cut between May 12th and July --

2 A. Okay.

3 Q. -- 25th when Daniel Rodriguez --

4 A. One of them was Daniel Rodriguez. They cut his time before  
5 they fire him. And Joseph Kofei, Sergio Recinos, myself  
6 included. There was another guy, Ronald Agyemang.

7 Some of the guys, they were supposed to cut their time  
8 also, and they were told to sign this paper and submit it to  
9 Mr. G so that their time can be restored to 66 hours.

10 So those, they never cut their hours, but there was --  
11 they give them this paper to withdraw. If they don't want  
12 to -- if they sign, they will work 66 hours. If they don't  
13 sign, they will have to have a 25-hour schedule per week.

14 Q. Workers who did not join the lawsuit, were they subject to  
15 similar cuts in their hours?

16 A. No. They work 66 hours.

17 MR. CHONG: Objection, your Honor. How is he going to  
18 testify about other workers?

19 THE COURT: Overruled.

20 Q. And workers who signed the papers didn't have their hours  
21 cut?

22 A. Excuse me?

23 Q. Workers who signed the statement saying they didn't want to  
24 be part of the lawsuit, they did not have their hours cut?

25 A. No.

1 Q. Even if they were plaintiffs in the case?

2 A. Those who signed the lawsuit, they cut their hours, right?  
3 They are the people who they never cut their hours, those who  
4 are not part of the lawsuit at all, they were still working 66  
5 hours.

6 Q. Do you know of any other plaintiffs who signed the paper?

7 A. Yeah, I know a lot of plaintiffs who signed the paper, yes.

8 Q. Can you name them?

9 A. There's Alioune. They cut him time last week. I even  
10 forgot.

11 Q. The paper that we were talking about earlier about -- to  
12 discontinue the case.

13 A. To discontinue the case?

14 Q. Yes. You said that people were pressured, the man who had  
15 a lot of problems with his heart.

16 A. Yeah. That's the one who --

17 Q. Who signed that paper?

18 A. -- who signed that paper because he couldn't take the  
19 pressure. Yeah. He's high blood, and his heart situation, he  
20 cannot go on and go.

21 MR. CHONG: Objection. He's testifying about some  
22 third party --

23 THE COURT: Sustained.

24 THE WITNESS: Excuse me?

25 THE COURT: No question.

1 MR. MARLBOROUGH: I can't ask you that.

2 BY MR. MARLBOROUGH:

3 Q. Is there any other way that plaintiffs in the lawsuit are  
4 treated differently than other workers?

5 A. Yes. The plaintiffs on the lawsuit, they cut their time,  
6 and they are always give them hard time, pressure, pressure.

7 MR. CHONG: Objection, your Honor. He's testifying  
8 about other people other than himself.

9 THE COURT: Yes. I understand. I'll let it stand.

10 THE WITNESS: Pressure, pressure, pressure, and they  
11 be exploited. So some of the people who are willing to join  
12 the case cannot join by seeing their colleagues being  
13 exploited.

14 Q. Have defendants sought your immigration documents?

15 A. That have ask me. Maddi Nasoco who ask me. Mr. Mike Memon  
16 asked Mr. Maddi to ask me.

17 Q. What purpose would they have for seeking your immigration  
18 documents?

19 A. So that they can try to block me from being part of the  
20 case.

21 MR. CHONG: Objection, your Honor.

22 THE COURT: Overruled.

23 Q. Do you believe that the hour cuts are a result of a  
24 business slowdown?

25 A. No. The business is booming. You can go, every day we

1 have big deliveries. If you go through the camera, you can see  
2 load, load, load is in every day.

3 Q. Do you know if any workers have been hired since the  
4 plaintiffs had their hours cut?

5 A. Yeah. They hire a lot of guys. There is another guy  
6 called George, there's another African lady, and a Bangladesh  
7 lady, there's another lady who is promoted and there's another  
8 guy in the neighborhood.

9 Q. How many hours are those people --

10 A. They work 66 hours.

11 MR. MARLBOROUGH: No further questions, your Honor.

12 MR. CHONG: Your Honor, just a few questions here.

13 CROSS EXAMINATION

14 BY MR. CHONG:

15 Q. Mr. Tebogo.

16 A. Yes.

17 Q. You testified earlier that you knew about the court order.  
18 What court order are you referring to?

19 A. The one which was given to the defendants on the May 12th.  
20 They know it, too, the same one.

21 Q. Who told you about that order?

22 A. Who told me about the -- because I was -- I was complaining  
23 to the attorneys that the bosses are retaliating and giving us  
24 pressures.

25 MR. MARLBOROUGH: I'm going ask you not to discuss any

contents of your communications with your attorneys.

THE WITNESS: Okay.

BY MR. CHONG:

Q. So who gave you the order?

A. The orders were coming from the judge.

Q. The judge gave you a copy of the order?

A. They gave it to the defendants, the defendants who they've avoided that. So because they just do their own thing, that all.

Q. So if you knew about that order, why did you --

A. Those orders were not given to me, even if I not got them. They were given to somebody to follow, not me to follow.

Q. Okay.

A. So whoever had the orders, he know what he was supposed to do. I don't have nothing to do with the orders.

What I had to do was to only do my job. Whatever they tell me to do, that is what I was supposed to do. The orders were not my orders.

Q. Nobody gave you the order, but you knew about the order; is that right?

A. Yes. And they know the order too.

Q. Well, if you knew about this order, which said the defendants are not supposed to speak to you and you're not -- there's supposed to be no discussion about the lawsuit, why did you walk into their office with a tape recorder in your pocket



1 and try to record them and discuss the lawsuit? What was your  
2 intent?

3 A. For my security reasons, because I don't know what -- if  
4 you record, is even better because you can take that  
5 information and put it to the -- like here. Nobody can deny  
6 it. But if I just write, write, write without any audio,  
7 somebody can say he's a liar.

8 Q. How do we know that this recording that you sent to your  
9 attorney, and this transcript, which I deem inaccurate, is a  
10 complete recording of the discussion that you had with my  
11 clients?

12 A. The recording, which I did, was one which you just hear.

13 Q. How do we know you didn't cut off the first part and the  
14 last part?

15 A. I can only follow what you are -- whatever we just hear in  
16 the audio that's what I can follow. The writing which somebody  
17 put, I cannot hundred percent follow. But I can only tell  
18 about the voices, my voice and other people's voices.

19 Q. I'm going to show you what's been marked as Plaintiff's  
20 Exhibit 2.

21 MR. CHONG: May approach, your Honor?

22 Q. You recognize this document?

23 A. Yes.

24 Q. Okay.

25 A. This was given to me by Mr. Mike. He handed it to me.

1 Q. When did he hand that to you?

2 A. A day before the court hearing.

3 Q. The day before the court hearing?

4 A. Yes.

5 Q. So what did you do with the original document? Where is  
6 it?

7 A. The original document, I think I have it in my house.

8 Q. Why didn't you give it to your attorney? Did you know that  
9 there are discovery requests made in this case, and I've  
10 requested all documents in relation to this matter?

11 A. It's the same thing.

12 MR. MARLBOROUGH: Objection.

13 THE WITNESS: This is the same thing.

14 BY MR. CHONG:

15 Q. This is the same thing?

16 A. Yes.

17 Q. Whose handwriting is this?

18 A. That was -- I cannot tell whose handwriting this is, but I  
19 was given the letter this one by Mr. Mike. It's just like he  
20 say in the audio, that tape, this one. So you can ask him that  
21 question, he can answer you.

22 Q. You testified earlier that your hours were reduced.

23 A. Yes.

24 Q. If you're contending that the defendants are retaliating  
25 against you, why wouldn't they just fire you?

1 A. Is up to them to fire me.

2 Q. Wouldn't it be fair to say that, instead of firing you,  
3 they just reduced your hours. They kept you -- they kept your  
4 employment, you kept your job, right?

5 A. They kept -- I kept my job and they hired people.

6 Q. Who did they hire?

7 A. They hired a lot of people. They hired another lady, they  
8 hired -- in less than two weeks they hired about five people.

9 Q. How do you know they hired five people?

10 A. We know each other. I can go around. I still have friends  
11 within this company because I used to go around. I have  
12 friends.

13 Q. So which location did they hire these other people at?

14 A. They have George and Willis, they have an African lady and  
15 a Bangladesh lady. Mr. G last week he took Adell to Morris.  
16 There's another guy in the neighborhood. If you go there right  
17 now, you are going to find those people.

18 Q. Do you know if those are full-time people or part-time  
19 people?

20 A. I find those people. Sometimes I come myself to see if  
21 these people -- I can come there and see if these people spend  
22 the day there. These people are working full time.

23 Q. So you're saying all those people are full time.

24 A. They are working full time. But just like they will tell  
25 you -- they will never tell you the truth. They work full

1 time. They can give you their own time.

2 Q. Who will not tell the truth?

3 A. Huh?

4 Q. Strike that.

5 A. Okay.

6 Q. Did you know that the defendants were having difficulty  
7 with their business?

8 A. What kind of difficulties, sir?

9 Q. Did you know that their business was slowing down?

10 A. If the business is slowing down, you cannot have big, big  
11 shipments every day.

12 Q. Why is that?

13 A. Ship, ship, shipments. You don't know the stuff coming to  
14 the stores every day to be distributed amongst their stores?

15 Q. You testified earlier that you said you were suspended.  
16 What do you mean you were suspended?

17 A. To be suspended.

18 Q. Okay. How were you suspended? What happened?

19 A. I came to work. Mr. G told me to stay there that day.  
20 That was after -- that was Memorial Day. Then he gave me about  
21 a day to come. After that he start to cut my time. That time  
22 I was not working on my regular schedule. They suspended my  
23 time after that and decided to give me a new schedule that from  
24 now and onwards you have to be working like this.

25 Q. Is it possible that they've reduced your hours because

1 there's a reduction in their business?

2 A. No.

3 Q. It's not possible?

4 A. It's not possible. But it is possible -- that cannot --

5 THE COURT: There's no question pending.

6 THE WITNESS: All right. Sorry.

7 BY MR. CHONG:

8 Q. You testified about Daniel Rodriguez and a knife incident  
9 at the store.

10 A. Yes.

11 Q. Which store was that?

12 A. That was Bergen Discount.

13 Q. That's the main store?

14 A. That's the main store, yes.

15 Q. You were working at that main store.

16 A. I was working that store, was working there.

17 Q. Did you go to the police station with the defendants to  
18 file the report?

19 A. Jose Ramos went with Usman Doria. And he say -- he talk to  
20 me and he talk to other guys that they went there. So they  
21 talk. You know, everybody get along with each other, so it's  
22 not a secret that they went to the police.

23 Q. You testified earlier that you knew what the police said to  
24 them.

25 A. That was whatever Jose told us, not only me.

1 Q. Who told you that?

2 A. Jose Ramos. He was saying they went to the police. He was  
3 talking to me and other guys. It's not a secret.

4 Q. Who's Jose Ramos?

5 A. He's a worker. It was not a secret.

6 Q. So Jose Ramos went to the police station with the  
7 defendants?

8 A. Yes, sir.

9 Q. Then he came back and he told you what happened?

10 A. He was talking to everybody, not only me. Because  
11 everybody in the store is a friend. We spend 11 hours together  
12 so -- that's where we spend most of our time.

13 Q. You testified about someone named Chris Bruce, and  
14 sometimes you call him Jerry.

15 A. Yes.

16 Q. You worked at the same stores with him, right?

17 A. I work with him, yes.

18 Q. Why did Chris Bruce decide to withdraw from this lawsuit?  
19 What's your explanation for that?

20 A. Because Christopher Bruce was pressured. They have gave  
21 him too much pressure.

22 Q. How do you know that?

23 A. That's what he told me. He talked to me.

24 Q. What kind of pressure did they give him?

25 A. They force him to do it, just like they did -- just like --

1 you've been hearing on audio telling me to do it. He was  
2 ordered to do it.

3 Q. He was ordered to do it?

4 A. Yes, he was ordered to do it.

5 Q. By who?

6 A. If he want to do it. If you don't want to do it, we cut  
7 your hours from tomorrow. Take it or leave it.

8 Q. Who ordered him?

9 A. Mr. G ordered him. It's not only Mr. G. Before Mr. G go  
10 to the store, Siraj went there with Usman. And the guy told me  
11 that he went there to tell him to withdraw from the lawsuit.

12 Q. How do you know about this document?

13 A. It's coming from the coworkers who were given the same  
14 document so that their time cannot be cut.

15 Q. Which coworker did you get this from?

16 A. It was -- three of them actually showed it to me.

17 Q. Who?

18 A. Three of them.

19 Q. Oh, yeah, but what are their names?

20 A. I give you the names, but at the end of the day, they are  
21 going to retaliate against them at work.

22 Q. Alls you have to do is tell me their names.

23 A. Okay. Mady Nassoko has the paper, Auguste have the paper,  
24 and Wilson Tenuda has the paper.

25 Q. Why would Christopher Bruce give this letter to these three

1 people?

2 A. Because they were supposed to have the same letter, but put  
3 in the addresses and their names with their own handwriting.

4 Q. How do you know they were supposed to write the same  
5 letter?

6 A. That's what they were told, to write the same letter with  
7 their own writing. Just put it your name, and submit it to the  
8 thing, and it is going to be submitted to the court. That's  
9 what they were told.

10 Q. You mentioned something about somebody getting arrested in  
11 this supposed recording. Who were you talking about?

12 A. I didn't talk about somebody getting arrested.

13 Q. What about two criminals? You testified that there was  
14 some testimony about two criminals in this.

15 A. That was Mike's -- that was Mike's words. That you can  
16 refer to Mike. He can answer it.

17 Q. What was that discussion about? You were there.

18 A. Me, the discussion was about withdrawing. That's why they  
19 were calling me. They were calling me to withdraw, to sign the  
20 paper, that's why they were calling me. That was the main  
21 theme for the meeting. The meeting was for me to sign the  
22 false document and submit it.

23 Q. If you didn't want to withdraw, why didn't you just walk  
24 out of that office? Why did you stay there for 20 minutes?

25 A. I cannot walk away from my bosses. What if they fire me



1 for walking away from them?

2 Q. Are you still working at Bergen?

3 A. I still work at Bergen Discount.

4 Q. You say you were demoted. What was the position that you  
5 held that you were demoted from?

6 A. I was making orders from store to store.

7 Q. What was your title?

8 A. Like a sales -- like a salesman for the company.

9 Q. Did the company give you that title, salesman?

10 A. I was just doing like a salesman. I'm just giving you the  
11 thing. My job was to make orders for all the stores.

12 Q. That was your title, salesman?

13 A. I don't know how you call it, but that's why they gave it  
14 to me. They told me to go from store to store to make the  
15 order from the main account, because they have a big warehouse  
16 and selling to other stores. I was just doing like a salesman.  
17 I'm just giving you an example.

18 Q. What did your position change to?

19 A. Now I'm -- now I don't have no position. Whatever I have  
20 to do is only to push the hand truck to take deliveries.  
21 That's it.

22 Q. Is it your testimony that Maddi Nasoco was also in the room  
23 during this alleged conversation?

24 A. Yes, he was there.

25 Q. Why was he there?

1 A. Why was he there? Because him and me were called together,  
2 same time.

3 Q. Is Maddi Nasoco still working for the company?

4 A. He was there.

5 Q. Did Maddi Nasoco know you were supposedly recording this  
6 conversation?

7 A. Do Maddi knew what?

8 Q. Did Maddi Nasoco -- did he know that you were recording  
9 this conversation?

10 A. I don't think so.

11 Q. You didn't tell him.

12 Do you still have the phone with this recording on it,  
13 this recording that your attorneys played back in court today?

14 A. Yes. I don't have it here, but I have it, yes. I left it  
15 there. Same phone.

16 Q. And the recording is still on it, so you can provide that  
17 to your --

18 A. 100 percent, you're going to get the same thing.

19 Q. You can provide that to your attorney?

20 A. Nothing -- I can give it to him anytime.

21 Q. You said you emailed that to Mr. Marlborough, correct?

22 A. Yes.

23 Q. What's your email?

24 A. My email is keletsotabogo@aol.com.

25 Q. Did you email that the evening before that hearing the next

1 day?

2 A. I emailed it before -- in less than an hour after I  
3 listened to it, I got it, listened to it, and I emailed it  
4 right away, not a day before.

5 Q. When did you send this document, this Plaintiff's  
6 Exhibit 2, to your attorney?

7 A. Same time.

8 Q. Same time?

9 A. Yes.

10 Q. So they're both attached to the email?

11 A. Yes.

12 Q. Do you still have that email within your emails? Do you  
13 think you can get a copy of that email?

14 A. I still -- I believe I can get this because I don't think I  
15 deleted it.

16 Q. What time of day was it when you had these conversations,  
17 these recorded conversations?

18 A. Which one?

19 Q. What time of day was it when you had these recorded  
20 conversations? Was it morning, afternoon?

21 A. It was --

22 THE COURT: That's enough. What time was it? What  
23 time of day?

24 THE WITNESS: It was in the afternoon.

25 Q. Do you know what day it was?

A. No.

MR. CHONG: Your Honor, I have nothing further.

MR. MARLBOROUGH: Nothing further from plaintiffs,  
your Honor.

THE COURT: Thank you, sir. You're excused.

THE WITNESS: Thank you.

THE COURT: Thank you.

Anything further?

MR. MARLBOROUGH: Your Honor, plaintiffs would like to  
call Mike Memon to the stand.

THE DEPUTY CLERK: Mr. Memon, stand and raise your  
right hand.

You do solemnly swear that the testimony you shall  
give this court in this issue now shall be the truth, the whole  
truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE DEPUTY CLERK: Please state your full name and  
spell your first name and last name slowly for the record.

THE WITNESS: They call me Michael. Michael Memon,  
last name.

THE DEPUTY CLERK: Spell your first name.

THE WITNESS: M-i-c-h-e-a-l, Michael. M-e-m-o-n.

THE DEPUTY CLERK: Thank you, Mr. Memon. Please be  
seated.

## DIRECT EXAMINATION

BY MR. MARLBOROUGH:

Q. Mr. Memon, what do you do for a living?

A. What I do? I manage a business.

Q. What is that business?

A. It's the 99-Cent Store.

Q. How many 99-Cent Stores do you manage?

A. I have at least 12 stores.

Q. 12?

A. 12.

Q. You've manage these stores for many years; is that correct?

A. Some, yes.

Q. How many years?

A. No, not all. I buy, sell. Some of the stores we just finish, so we get rid of.

Q. How many years did you manager Bergen Discount?

A. A few years.

Q. More than 10 years?

A. Yes.

Q. All told, do you have approximately 100 employees?

A. Excuse me?

Q. Do you have 100 employees?

A. 100? More or less.

Q. Did you manage these stores with your business partner, Mohamed Doria, correct?

1 A. I don't have partner.

2 Q. Did you work with Mohamed Doria?

3 A. He used to work for me.

4 Q. He was your employee?

5 A. Yes, sir.

6 Q. What was his job?

7 A. Buying merchandise.

8 Q. Mohamed passed away in August, 2014; is that right?

9 A. Correct.

10 Q. Do other members of Mohamed's family currently work with  
11 you?

12 A. Yeah. These guys are working. Some of them are family,  
13 yes. But not close family, you know, the brothers. Just the  
14 brother and brother-in-law, not son and daughters.

15 Q. Gulan Doria, is he a manager at the stores?

16 A. He works for me.

17 Q. And he's a manager of the stores?

18 A. You know, you say manager. You know, because if you give  
19 some authority, it calls manager, you know?

20 Q. So do you give authority?

21 A. Sometimes I give him the authority.

22 Q. Does he control the hours that people work?

23 A. He doesn't control. I said I give him some authority when  
24 I'm not there.

25 Q. Does he decide hours for people's work when you're not

1 there?

2 A. Maybe, may not be.

3 Q. How about Salim Doria?

4 A. Yeah, he also work for me.

5 Q. Does he have control over people's hours?

6 A. No, he doesn't.

7 Q. How about Sikander Doria?

8 A. No, he doesn't.

9 Q. Does he work for you?

10 A. He work one of the stores.

11 Q. He works one of the stores? Which store is that?

12 A. 99-Cent.

13 Q. What does he do there?

14 A. Same thing like salespeople too; selling stuff in store,  
15 pricing, fixing.

16 Q. So he's a stock boy.

17 A. (Non-verbal response)

18 Q. Salim Doria. You know that Salim Doria called Kamal Passa  
19 to get him to withdraw the case, right?

20 A. Excuse me?

21 Q. You know that Salim --

22 MR. CHONG: Your Honor, objection.

23 THE COURT: Wait. Just a second. Let's have the  
24 question again, please.

25 Q. Do you know that Salim Doria called Kamal Passa to get him

1 to withdraw the case?

2 MR. CHONG: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: I don't know.

5 Q. Is that something that a stock boy would do?

6 A. Did I tell him to do the same thing? Taking the pricing,  
7 making the pricing, taking the delivery, that's all.

8 Q. Would a stock boy call someone to get them to withdraw from  
9 the case?

10 A. I don't know.

11 Q. You don't know if a stock boy would do that?

12 MR. CHONG: Objection, your Honor, asked and answered.  
13 Let's go.

14 THE WITNESS: I don't know about this matter.

15 Q. Usman Doria is a manager, isn't he?

16 A. He work. He take the loading and unloading, not the  
17 manage.

18 Q. Does he do the interrogating?

19 A. Excuse me?

20 Q. Is he responsible for interrogating workers?

21 MR. CHONG: Objection, your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: What you say? Excuse me?

24 Q. Is he responsible for interrogating workers at the Discount  
25 Stores?



1 A. He's part of the employees, you know.

2 Q. You heard the tape with Mr. Tebogo, correct?

3 A. Yes, sir.

4 Q. Is that a tape of your voice?

5 A. I'm not sure. I don't recall.

6 Q. Do you recall that conversation?

7 A. I heard from you.

8 THE COURT: I'm sorry. Your response?

9 THE WITNESS: I don't recall.

10 Q. Did you recognize your voice on the tape?

11 A. I don't recall. I'm not sure.

12 Q. Did you recognize Usman Doria's voice on the tape?

13 A. I'm not sure, either.

14 Q. Did you recognize Keletso Tebogo's voice on the tape?

15 A. I heard, but I'm not sure, either.

16 Q. Did you recognize Maddi Nasoco's voice on the tape?

17 A. I'm not sure.

18 Q. Were you present at a hearing before Judge Sullivan in  
19 another courtroom on this case?

20 A. Yes, I was.

21 Q. Were you present when your lawyer informed the judge that  
22 you do not recognize anyone on the recording?

23 A. I'm not sure.

24 Q. Would that have been a true statement at the time?

25 MR. CHONG: Objection, your Honor.

1 THE COURT: Overruled.

2 THE WITNESS: I don't recall.

3 Q. Whoever that person was on the tape who said, "You stab us  
4 in the back us," that person didn't sound like they were doing  
5 the job of a delivery boy, did they?

6 THE COURT: Sustained.

7 MR. CHONG: Thank you.

8 Q. Those people didn't sound like they were afraid to talk  
9 about the lawsuit, did they?

10 MR. CHONG: Objection.

11 THE COURT: Sustained.

12 THE WITNESS: I don't recall.

13 MR. CHONG: Thank you.

14 Q. Musajee Vawda was a manager also at the stores?

15 A. Nobody is a manager of family. I gave them authority.  
16 Somebody do one job, the other guy do the other job like this,  
17 you know. Like Musajee do the buying, buying of the  
18 merchandise.

19 Q. So you do the schedules for all of the workers?

20 A. He ask me what to buy, what not to buy, then I give him  
21 authority to buy and not to buy, depending upon the  
22 circumstances.

23 Q. Who does the schedules for all the workers?

24 A. No.

25 Q. Who does the schedules for all the workers?

1 A. Everybody -- you know, sometimes I do the schedules.

2 Q. Okay. Do any of these other people that we talked about do  
3 workers' schedules?

4 A. I do.

5 Q. Just you. So are you solely responsible for workers'  
6 schedules?

7 A. You know that once you allocate the hours or something,  
8 it's keep ongoing. It's not every day that you have to change  
9 the hours.

10 Q. A lot of the workers in this case say that their hours were  
11 changed; isn't that right?

12 A. Depending upon the circumstances.

13 Q. Who is Siraj Bhayiat?

14 A. He's also working in the store.

15 Q. Is he a regular employee?

16 A. He just started last week.

17 Q. Is he on the same level as the 30 people that are here  
18 behind us?

19 A. Correct.

20 Q. He's on the same level of employment as the 30 people that  
21 came to this hearing?

22 MR. CHONG: Objection, your Honor.

23 Q. Do you know if he's a plaintiff in the lawsuit?

24 A. Some I know, some I don't.

25 Q. Do you know if Siraj Bhayiat is a plaintiff in a lawsuit?

1 A. No, he's not.

2 Q. Did you talk to Siraj Bhayiat about the lawsuit?

3 A. Everybody knows about this matter. It's not hidden.

4 Q. Is there an order prohibiting you from talking to --

5 A. Everybody know this is already that going on.

6 Q. Is there an order prohibiting you from talking to employees  
7 about the lawsuit?

8 A. I don't talk, but it is already -- you know.

9 Q. Have you talked to Siraj Bhayiat about the lawsuit?

10 A. No, I don't.

11 Q. You don't. Did Siraj Bhayiat attend hearings with you in  
12 this case?

13 Is Siraj Bhayiat here right now?

14 A. He is here.

15 Q. He is. Can you show me where he is?

16 A. See, he's shaking hand?

17 Q. Is that on the side with all the other defendants?

18 A. Yes, correct.

19 Q. And he's a regular employee.

20 A. Not regular employee, but on and off.

21 Q. And you don't talk to him about the lawsuit.

22 MR. CHONG: Asked and answered multiple times.

23 THE COURT: Sustained.

24 Q. Did he come to you to a mediation session in this case?

25 MR. CHONG: Objection, your Honor. That's mediation.

That's confidential.

THE COURT: Sustained.

MR. CHONG: It doesn't have relevance.

Q. Is Sofiya Manjra involved in the management of the business?

A. Not.

Q. Does anyone from the Doria family look out for the interest of Sofiya Manjra with respect to the businesses, the Discount Stores?

A. No.

Q. You know you can't talk about the lawsuit and talk to plaintiffs about the lawsuit, right?

A. Why should I talk to lawsuit for everybody? You said I talk to lawsuit. I don't talk to lawsuit.

Q. Usman Doria, Musajee, Sikander, Salim, Siraj, Gulan, they can't talk to the workers about the lawsuit either; is that right?

A. I don't know.

MR. CHONG: Objection, your Honor.

Q. They're all related to Mohamed Doria?

A. Some are close and some are distant.

Q. Have you ever been sued in a federal lawsuit as a codefendant with Mohamed Doria before?

MR. CHONG: Objection, your honor. Relevance.

THE COURT: Overruled.

1 THE WITNESS: I --

2 THE COURT: Do you understand the question?

3 THE WITNESS: I don't recall.

4 Q. You don't recall? Do you recall telling a federal judge  
5 that you don't speak English?

6 MR. CHONG: Objection, your Honor.

7 THE COURT: Overruled.

8 THE WITNESS: I speak English.

9 Q. Do you recall telling a federal judge that your name is not  
10 Mike Memon?

11 A. Excuse me?

12 Q. Do you recall telling a federal judge that your name is not  
13 Mike Memon?

14 A. Yeah. My name is -- in the store they call me Mike Memon.

15 Q. So if someone gave you a document that said Mike Memon on  
16 it, you would know that that was for you.

17 A. Because most -- ever since they used call me Mike in the  
18 store.

19 Q. You came to this court in May, 2015, correct?

20 A. Correct.

21 Q. Were you here when the lawyers went into that room over  
22 there to talk with the judge?

23 A. Yes.

24 Q. Was that about a temporary restraining order to prohibit  
25 you from communicating with the plaintiffs about the lawsuit

1 and retaliating against them?

2 A. I don't remember it.

3 Q. Do you remember that that's an issue in this case?

4 A. No, I don't remember.

5 Q. So you don't know if there's an order preventing from  
6 communicating with workers about the lawsuit?

7 A. I know about the lawsuit, but I don't go into the deep.

8 Q. And you never received a copy of any order telling you that  
9 you cannot communicate with workers in the lawsuit?

10 A. I don't recall.

11 Q. You were at the hearing with Judge Sullivan when Judge  
12 Sullivan personally told you that you cannot communicate with  
13 any workers former or current employees about the lawsuit?

14 A. I don't recall.

15 MR. CHONG: Asked and answered.

16 THE COURT: Overruled. I'm sorry. Your answer?

17 THE WITNESS: I don't remember.

18 Q. That was just on June 2nd, 2015.

19 A. Got it.

20 Q. Does that help jog your memory?

21 A. Yeah, I remember.

22 Q. So you do remember?

23 A. No, I don't remember the specific you talk now.

24 Q. Do you know why you were there that day?

25 A. I have hard of hearing, that's why, you know?

1 Q. Oh. Do you know why you were there that day?

2 A. I don't remember.

3 Q. Was Siraj with you that day?

4 A. I hope so.

5 Q. And he's a stock boy?

6 A. Who?

7 Q. Did you bring any other stock boys with you that day?

8 A. Who? Excuse me?

9 MR. CHONG: I'm going to object to --

10 Q. You said Siraj was with you that day?

11 MR. CHONG: I'm going to object to this line of  
12 questioning.

13 THE WITNESS: Yeah, I said hope -- I don't know --  
14 hope he was.

15 THE COURT: Overruled.

16 Q. Did you bring any other stock boys with you to the court  
17 hearing that day?

18 A. No.

19 Q. When you left that courtroom on May 12th, this very  
20 courtroom, did you know that you weren't allowed to retaliate  
21 against the workers?

22 A. I don't remember.

23 Q. Gulan Doria was with you at the court that day, right?

24 A. I don't remember.

25 Q. Siraj Bhayiat was with you, right?



1 A. Yeah, he was.

2 Q. There was another person with you too. What's that  
3 person's name?

4 A. Who was it? I don't remember who was with me.

5 Q. There were two plaintiffs at the courthouse also; is that  
6 right?

7 A. Two plaintiff? I hope so, yeah. I don't remember.

8 Q. Do you remember trying to have someone arrested on the  
9 courthouse steps?

10 A. We didn't harass anybody. We were walking on the street.

11 Q. Do you remember trying to have anyone arrested on the  
12 courthouse steps immediately after the judge issued a temporary  
13 restraining order?

14 A. I never harass anybody. I never arrested anybody or  
15 something like that. It's your mistake.

16 Q. Did anyone in your group on the courthouse steps say that  
17 they were going to try to have someone arrested?

18 A. Absolutely no.

19 Q. Did anyone in your group on the courthouse steps say to the  
20 plaintiff's lawyer, Adam Slater, "We know where you live?"

21 A. Absolutely no. I don't know.

22 Q. Do you know where Adam Slater lives?

23 A. I don't know.

24 Q. Did anyone in your group, immediately after the Court  
25 issued the temporary restraining order on May 12th, say to any

1 of the workers on the courthouse steps that he was going to F  
2 them up, or, "We are going to F you up?"

3 A. I don't recall it.

4 Q. Do you recall any incident on the courthouse steps?

5 A. I don't know.

6 Q. Do you know who Carlos Laguna is?

7 A. Yeah. He used to work for me.

8 Q. And you fired him, right?

9 A. I never fired him. Nothing. He took the money and never  
10 show up, and he is under arrest.

11 Q. He has been arrested?

12 A. The police is looking for him.

13 Q. Oh, the police are looking for him.

14 A. Because he change his address from one place to another.

15 Q. This is Carlos Laguna. And was he terminated as an  
16 employee of yours?

17 A. Excuse me?

18 Q. Was he fired from his job?

19 A. I said I never fired him.

20 Q. Was he fired?

21 A. Never.

22 Q. By nobody.

23 A. Nobody.

24 Q. Did he quit his job?

25 A. Yes. Because he and his brother-in-law took the money from

the store, and run away, and we call the police, police is still looking for them.

Q. Roberto Rodriguez. Do you know who that is?

A. Yes, I do.

Q. Who is that?

A. He used to work as a loading and unloading guy.

Q. Did you attempt to have him arrested?

A. He took out the knife, and he tried to punch him, one of the employees. The police came, and he says, "Who is the owner?" I was present at that time. And they took my statement, the police, the officer. And I said that he took out the knife, therefore, he's supposed to be arrested. So they told me to, you know, get rid of this guy.

Q. Oh, they told you to fire that person?

A. Yes.

Q. And as a good corporate citizen, you obeyed the order of a law enforcement officer and fired him; is that correct?

A. It was a danger for the store.

MR. CHONG: Objection to that question.

THE WITNESS: Because this guy took out the knife from his pocket, the next day the other guy gonna do the same thing. That's why we had to clean the -- it's best like that.

Q. How many workers have you tried to have arrested?

A. Two guys.

Q. How many of those workers are plaintiffs in this lawsuit?

1 A. Around 30, 40.

2 Q. How many of the workers that you have tried to have  
3 arrested?

4 A. None. Only two guys.

5 Q. Is Daniel Rodriguez a plaintiff in this lawsuit?

6 A. Rodriguez. Yeah, I think.

7 Q. Did you try to have him arrested?

8 A. Excuse me?

9 Q. Did you try to have him arrested?

10 A. No, I didn't.

11 Q. Did you get pictures of yourself with the police officers  
12 when they came to investigate this alleged knife incident?

13 A. Yes, I did.

14 Q. Did you say, "The lawsuit is over?"

15 A. No, I didn't say that.

16 Q. Did you say, "The case is over?"

17 A. No, the case is not over.

18 Q. What was the purpose of posing with police officers?

19 A. As a proof.

20 Q. Proof of what?

21 A. You know, in the future, it might help us.

22 Q. Help you do what?

23 A. That these guys took out the knife in front of the other  
24 guys.

25 Q. What would it help you if --

1 A. Just for record purpose.

2 Q. Did you or anyone in your group take pictures on the  
3 courthouse steps, or record any audio or video on the  
4 courthouse steps?

5 A. I don't remember.

6 MR. CHONG: Objection.

7 Q. Right after the temporary restraining order was issued?

8 A. I don't remember and I don't recall.

9 Q. So are you trying to have two people arrested in  
10 relationship to this theft that you talked about?

11 A. Excuse me?

12 Q. How many people are you trying to have arrested in  
13 connection with the theft from the store?

14 MR. CHONG: I think we covered these questions, your  
15 Honor.

16 THE WITNESS: You keep on asking same question. I  
17 said I don't recall.

18 Q. That's a different question.

19 Okay. Carlos Laguna. Is that a person that you're  
20 trying to have arrested in connection with a theft from the  
21 store?

22 A. Right. Because he and his brother-in-law took the money  
23 from the store.

24 Q. Are you trying to have his brother-in-law arrested, also?

25 A. Yes, I am trying.

1 Q. And those are two people, right?

2 A. Yes.

3 Q. What about the knife person? Were you trying to have the  
4 knife person arrested?

5 A. No.

6 Q. You're not trying to have the knife person arrested.

7 A. Who is the knife person you are talking about?

8 Q. The one where the police came and you posed for pictures  
9 with them. Did you try to have that person arrested?

10 A. He didn't arrest him.

11 Q. Did you try to get him arrested?

12 A. No, I didn't try nothing. I was standing next to the  
13 police, and he took the report from that guy.

14 Q. You didn't want to have charges pressed against this  
15 person?

16 A. I didn't involve it, because I don't recall all these  
17 things. Just he fill out the form, and then he went.

18 Q. If someone said to you that they know where you live, would  
19 you take that as a threat?

20 A. Excuse me?

21 Q. If someone said that they know where you live, they shout  
22 at you, "We know where you live," would you take that as a  
23 threat?

24 A. I don't remember. I don't recall.

25 Q. How about if it was four guys that were doing it? A gang

1 of four guys said, "We know where you live." Would you worry  
2 for the safety of yourself and your family?

3 MR. CHONG: Objection to this line of questioning.

4 THE COURT: Overruled.

5 THE WITNESS: I don't recall that.

6 Q. You don't recall.

7 If a gang of four guys threatened to F you up, would  
8 you take that as a threat?

9 A. Why they would tell me like this?

10 Q. I'm asking you a question. The answer is a yes or no.

11 Would you take that as a threat if a gang of four guys  
12 threatened to F you up?

13 A. If you are in a Bronx area, a dark area, it's a threat.

14 But if you are in Queens or Manhattan, it's not a threat.

15 Q. How about outside of a courthouse where people are expected  
16 to act in a civil manner and not like an animal on the street?

17 In that case would you take it as a threat?

18 THE COURT: Sustained.

19 MR. CHONG: Thank you, your Honor.

20 THE WITNESS: No threat.

21 Q. How about in a courthouse, on the steps of a courthouse?

22 Would you take it --

23 THE COURT: Sustained.

24 MR. CHONG: Thank you, Judge.

25 Q. Did you personally hire every single employee who works for

1 you?

2 A. No, I never hire anybody yet.

3 Q. You never hired anybody?

4 A. I don't remember.

5 Q. You don't remember. Who hired the employees?

6 A. I said I authorize some guys to do it.

7 Q. You authorized who to do it?

8 A. Mr. G, or some other guy who was available at that time.

9 Q. Tell me the people who are authorized to hire employees.

10 A. It is not a big corporation that, you know, that somebody  
11 should be special for hiring person.

12 Q. Is Keletso Tebogo authorized to hire employees?

13 A. Mr. G usually hires the people because I authorize him.

14 Q. Who is authorized to fire employees?

15 A. Excuse me?

16 Q. Who is allowed to fire employees?

17 A. Who?

18 Q. Who is allowed to fire someone?

19 A. That someone -- you know, that guy, he just told me take  
20 out the knife was fired.

21 Q. Okay. Who was allowed to fire him?

22 A. Who was allowed?

23 Q. Yes.

24 A. We didn't allow it but, you know, because it's dangerous  
25 for the store, that's why I told him that, "Don't come."



1 Q. Oh, so you fired him.

2 A. Right.

3 Q. Was Mohamed Doria authorized to hire and fire people?

4 A. He never work for me. He was just doing the buying for the  
5 store. He was not employed.

6 Q. You know who Luckenson Camille is, right?

7 A. Excuse me?

8 Q. You know who Luckenson Camille is, right?

9 A. I don't remember who this is.

10 Q. He's the person that threatened Josue Pierre-Lewis to have  
11 him deported.

12 A. Maybe his name is different. You know.

13 Q. Are you aware of any efforts to have Josue Pierre-Lewis  
14 deported or threatened with deportation?

15 A. No.

16 Q. Have you been trying to get immigration documents from the  
17 plaintiffs or from third parties about the plaintiffs?

18 A. Not really.

19 Q. Not really?

20 A. I don't recall it.

21 Q. Do you recall any instances where you attempted to obtain  
22 immigration documents about the plaintiffs?

23 A. No.

24 Q. How about a green card from Keletso Tebogo's green card?

25 A. I'm not.

1 Q. How about demanding a passport from Joseph Kofei?

2 A. I don't recall.

3 Q. Do you know who Joseph Kofei is?

4 A. Now I know. Before, his name was different.

5 Q. So you recognize him from a document that we submitted in  
6 this case; is that right?

7 A. Yes.

8 Q. Do you recognize all those people that you say you didn't  
9 know?

10 A. Yeah. Because in the store --

11 MR. CHONG: Object to form.

12 THE WITNESS: -- they give you different name, and  
13 then they don't present their social security or nothing. Now  
14 we know, because my attorneys send me the picture of these guys  
15 with different name.

16 Q. So now there are none of the plaintiffs that you do not  
17 recognize; is that correct?

18 A. The name when we hired, they use a different name. Now,  
19 some of the people I know, because now I got the correct name  
20 and the correct pictures.

21 Q. Did you cut a lot of workers' hours lately?

22 A. Excuse me?

23 Q. Have you cut a lot of workers' hours in the last three  
24 months?

25 A. Across the board I cut many people's hours because of the

lagging business activities.

Q. But you're hiring new employees to work full schedules, aren't you?

A. Because those ladies are forcacious (ph), and they are some pregnant, they moved out, so I replace with the good ladies who can run the cash register.

Q. Are you cutting hours of people who are not plaintiffs in this lawsuit?

A. I told you, because the business activities is lagging, they're declining, that's why we have to reduce the workers.

I want to fire the people, but since -- I don't want to fire them because I don't want that they go hand to mouth. You know. They can survive.

Q. Name some of the current employees who are not plaintiffs in this lawsuit who have had their hours cut.

A. Across the board I, you know, slightly reduce the hours. Not every -- not fully, but I reduce slightly hours.

Q. Can you name those people?

A. No. I have so many people, now you want me to give you this list?

Q. Yes.

A. All these first people's hours cut.

Q. Let me give you a list from the plaintiffs side.

Keletso Tebogo, did you cut his hours?

A. Yes, I --

1 Q. Joseph Kofei, did you cut his hours?

2 A. Yes.

3 Q. Ron Agyemang, did you cut his hours?

4 THE COURT: Let's not waste a lot of time.

5 Q. You treat workers who are plaintiffs in the case  
6 differently than you treat workers who are not plaintiffs in  
7 the case; isn't that right?

8 A. Not right.

9 Q. Do you require workers who are plaintiffs in the case to  
10 sign for their pay as of last week?

11 A. I don't remember.

12 Q. But workers who are not plaintiffs in the case don't have  
13 to sign for their pay?

14 A. It's not true.

15 Q. Do workers who are not plaintiffs in the case have to sign  
16 for their pay?

17 A. According to the Labor Department, they issue new rules  
18 that everybody has to sign the paper for coming in and going  
19 out.

20 Q. So do workers who are not part of the lawsuit have to sign  
21 for their pay?

22 MR. CHONG: Asked and answered.

23 THE COURT: Overruled.

24 THE WITNESS: What is it, please? Excuse me?

25 Q. Do workers who are not part of the lawsuit have to sign for

1 their pay?

2 A. Everybody has to do. We are trying our best to get  
3 everybody into the attending book. This is a new labor law.

4 Q. Have you received any letters of apology from any of the  
5 plaintiffs in this case apologizing for inconveniencing you by  
6 participating in a lawsuit?

7 A. One of the guys send me one letter the other day, attention  
8 mine. You have seen the letter. You were circulating it.

9 Q. Is that Christopher Bruce?

10 A. Correct.

11 Q. Is that a letter that you received?

12 A. Yes.

13 Q. Is that a letter that you received from Christopher Bruce?

14 A. Correct.

15 MR. MARLBOROUGH: Your Honor, I'd like to admit that  
16 into evidence, Plaintiff's Exhibit 3.

17 THE COURT: Yes, it's admitted.

18 Q. Did any other workers submit a letter of apology to you --

19 A. No.

20 Q. -- for inconveniencing you by participating in the lawsuit?

21 A. I don't remember.

22 Q. Did Maddi Nasoco give you such a letter?

23 A. I don't remember.

24 Q. Do you know someone named Police?

25 A. I don't remember.

1 Q. How about Wilson Tenuda?

2 A. I don't.

3 Q. How about Marcelin Auguste?

4 A. I don't remember.

5 Q. Do you know that Marcelin Auguste was recently promoted?

6 A. I don't remember.

7 Q. Do you know that Marcelin Auguste filled the position off  
8 Alioune Diagne, who is a plaintiff in this case?

9 A. Nobody's demoted or promoted. I am just telling you that  
10 that depend upon the economic situation. When we don't have a  
11 big delivery, then nothing, we have to cut hours to survive.

12 Q. Was Alioune Diagne recently terminated?

13 A. Because of it's a relative, I have to make the adjustment.  
14 If I don't do that, I will be out of business next day. You  
15 know, the corporation also filing and, you know, laying off the  
16 people. I'm not laying off the people, I'm just reducing in  
17 order for the living so they can survive.

18 MR. MARLBOROUGH: Your Honor, this document that we've  
19 admitted into evidence, the Christopher Bruce letter, I think  
20 it was Plaintiff's Exhibit 4, I'd like to show it to the  
21 witness, if I may.

22 MR. CHONG: That was premarked as 3.

23 MR. MARLBOROUGH: Premarked as 3. All right.

24 Q. I'm going to ask you to take a look at this letter. Can  
25 you read the substance of that letter to me?

1 THE COURT: No, read it to yourself. Any questions?

2 MR. MARLBOROUGH: Yes.

3 Q. Do you recognize the notary signature on that letter?

4 A. Yeah.

5 Q. Do you know the name, who that person is?

6 A. No, I don't.

7 Q. Alioune Diagne was recently terminated; is that correct?

8 A. Who?

9 Q. Alioune Diagne?

10 A. I don't remember.

11 Q. How about Marcelin Auguste? We talked about him getting a  
12 promotion.

13 A. Who?

14 Q. Marcelin Auguste.

15 A. What is his real name? I don't know the name but, you  
16 know, what he's called in the store?

17 Q. Do you --

18 A. The others use their own name because for the benefit  
19 cards.

20 Q. How many of these workers are cheating you, or cheating?  
21 How many of these workers are cheating?

22 A. All the employees, they get these food coupons, they get  
23 the housing benefits, they get the food coupons, and then they  
24 give us the wrong name so that they can get all the benefits  
25 from the government, plus they get the money from us. So, you

1 know, they make more money than ordinary people.

2 Q. Why do you even hire these criminals?

3 A. I ask them to show me the social security. They said they  
4 don't have a card. They are illegal.

5 Q. Why do you hire them?

6 A. Because I need. I have to run my business. I don't ask  
7 them to come to my store, they come by themselves and crying  
8 for the job. I don't beg them and go their house, "Oh, come  
9 on. Let's have a work."

10 Q. Do you know Mamadou Diallo? Do you know Mamadou Diallo?

11 A. I know him. He used to work, yes.

12 Q. He's a former employee?

13 A. Yes.

14 Q. When was the last time you saw Mamadou Diallo?

15 A. Huh?

16 Q. When was the last time you saw Mamadou Diallo?

17 A. Two, three weeks ago.

18 Q. How long ago did he work for you?

19 A. Very short time. Two, three months, something like that.

20 Q. Did you tell him that it is forbidden by Allah for him to  
21 accept the money --

22 A. Excuse me?

23 Q. -- from the lawsuit?

24 Did you tell him it was forbidden by Allah for him to  
25 accept money in this lawsuit?



1 A. I don't remember.

2 Q. You told him that money was haram, didn't you?

3 A. I don't remember.

4 Q. Can you tell me what haram means?

5 A. Excuse me?

6 Q. What is haram?

7 A. I don't remember.

8 Q. Is that a word of Muslim --

9 A. You asking any question which I don't remember, and he make  
10 many things in the letter.

11 Q. So I'm going to back up, and I apologize.

12 Haram, my understanding is, is a foreign language word  
13 that I do not know. Can you tell me the meaning of the word  
14 haram?

15 A. He never told me nothing. He never talked to me. How  
16 could he said that -- did he tell me -- he never told me  
17 nothing. Haram. Allah.

18 Q. Do you know the meaning of the word haram?

19 A. I know the word, but he never talked to me.

20 Q. What does the word mean?

21 A. Means, you know, it's not honest money.

22 Q. Not honest money.

23 A. Dishonest. To make money dishonestly.

24 Q. Do you think it's dishonest for a worker to be paid minimum  
25 wage? Is that honest money? If a person works and they get

1 minimum wage, is that honest money?

2 A. You know that you are asking such a funny question. I  
3 didn't ask --

4 THE COURT: We're dealing with a contempt, right?

5 MR. MARLBOROUGH: Yes, your Honor.

6 THE COURT: We're not proving the case, right?

7 MR. MARLBOROUGH: Your Honor --

8 MR. CHONG: Thank you, Judge.

9 Q. Did you offer to give Mamadou Diallo a truck if he stayed  
10 out of the lawsuit?

11 A. I don't remember, and he's a liar. He's a big liar, Moma  
12 Didiolo. He make big, big stories.

13 Q. Ah.

14 MR. MARLBOROUGH: No further questions, your Honor.

15 MR. CHONG: Just a few questions, Judge.

16 CROSS EXAMINATION

17 BY MR. CHONG:

18 Q. Mr. Memon, has there been a downturn in your business in  
19 the last three years?

20 A. Excuse me?

21 Q. Has there been a downturn in your business?

22 A. It has been downturn for a long time, you know? I don't  
23 know how we are surviving.

24 Q. As a result of this downturn in your business, did you have  
25 to reduce hours of employees?

1 A. Yes. Across the board I reduce the hours for many guys.

2 Q. When you say "across the board", it applies to everybody,  
3 correct?

4 A. Almost.

5 Q. Everybody?

6 A. Not everybody, most of the guys. Because let's say, before  
7 we used to get 100 percent delivery, now we are not getting  
8 100 percent delivery. So naturally, those people who do the  
9 loading and unloading job, we reduce the hours.

10 Q. So are you reducing the hours of employees to retaliate  
11 against them?

12 A. Not true.

13 Q. Why don't you just fire these employees if you don't like  
14 them?

15 A. I wish I could fire them, but because of their living, you  
16 know, I don't want to hurt these people. I think everybody  
17 should survive.

18 Q. Do you feel that some of these workers are taking advantage  
19 of this lawsuit?

20 A. I thought so.

21 Q. Well, are they taking advantage of this lawsuit by not  
22 performing their duties at the job?

23 A. Yeah. Right now, since this lawsuit occur, that these guys  
24 are not doing their proper job, and they don't do efficiently  
25 like they used to work.

1 Q. Are you afraid to speak to them because you're afraid they  
2 might claim retaliation?

3 A. Exactly.

4 Q. The plaintiffs' counsel played a tape earlier. We all got  
5 a chance to listen to the tape.

6 Mr. Tebogo testified that he walked into your office  
7 with his phone recorder in his pocket and he recorded this  
8 conversation between you, himself, I believe Usman Doria, and a  
9 Mr. Nasoco. Do you recall this conversation?

10 A. I don't remember when was that.

11 Q. Did you ever ask any of your employees to sign some type of  
12 document stating that they don't want to join this lawsuit?

13 A. No, I don't recall it.

14 Q. When you reported that incident to the police, that knife  
15 incident that you testified about concerning, I think it was  
16 Daniel Rodriguez, your purpose was to prevent somebody from  
17 being harmed at your store, correct?

18 A. Exactly.

19 Q. Christopher Bruce, and they sometimes call him Jerry. You  
20 know, there's been testimony today that you've pressured  
21 Christopher Bruce to withdraw from this lawsuit and submit this  
22 letter to you, this apology letter, Plaintiff's Exhibit 3. Is  
23 that true?

24 A. It's not true because I never met Bruce.

25 Q. Okay.

A. Yes.

Q. Has anybody else sent you apology letters similar to Mr. Bruce?

A. I don't remember.

Q. Mr. Memon, you recall that in May -- I think it was May 21st -- you came to court with me to appear before Judge Sweet, correct?

A. Correct.

Q. After that, when we left the courthouse, the Judge gave certain instructions, an order, correct?

A. Correct.

Q. Okay. I discussed that order with you, correct?

A. Correct.

Q. Didn't I instruct you that, pursuant to that order, you're not to discuss this lawsuit with any of the employees, correct?

A. Correct.

Q. Did you follow that order?

A. Correct.

Q. Mr. Memon, there's been testimony, and it's in their plaintiffs' papers, that on that day that you and I walked out of the courthouse, on the steps, that you and others that were with you made threats to the plaintiffs walking out on the stairs. Is that true?

A. It's not true.

Q. Okay.

A. It's a false assert.

Q. Did you ever say anything to any of the plaintiffs while we were walking out of the courthouse?

A. No. We were walking -- we were going out from the court. That's it.

Q. Did you yell out any profane statements to the plaintiffs, and plaintiff's counsel says there's one statement, "I'm going to F you up."

A. It's not true.

Q. So you never made that statement to anybody.

A. No.

Q. Did you make any threatening statements to plaintiffs' counsel, Adam Slater?

A. No, I --

Q. Did anybody in that group walking out of the courthouse make a threat to Adam Slater?

A. Never.

Q. There is another employee that has been discussed, and he was subject of an arrest warrant for stealing money from the store, correct?

A. Correct.

Q. According to the police report, I want you to confirm it, he stole \$9,000 from your store; is that correct?

A. Exactly.

Q. Okay.

1 MR. MARLBOROUGH: Objection, your Honor. I don't  
2 think the police report says that he stole \$9,000.

3 THE COURT: Overruled.

4 Q. So what was that person's name, the employee's name?

5 A. Carlos.

6 Q. Carlos? What's his last name?

7 A. Logan.

8 Q. So why did the police issue an arrest warrant for him?

9 A. Because he took the money and he run away.

10 Q. How much was it?

11 A. Police are looking for him, and he cannot be find. That's  
12 why he's under arrest.

13 Q. Is the reason that he's under arrest or there's a warrant  
14 for his arrest because you were retaliating against him?

15 A. No.

16 Q. There's some testimony earlier today that Josue  
17 Pierre-Lewis. That's a former employee of yours, correct?

18 A. Correct.

19 Q. Did you ever try to pressure him to withdraw from this  
20 lawsuit?

21 A. I don't.

22 Q. No?

23 A. I don't recall it.

24 Q. Do you know if Gulan Doria ever tried to pressure Josue  
25 Pierre-Lewis to withdraw from this lawsuit?

A. I doubt it.

Q. There's been some testimony and some questions stating that you and other, I guess, employees at the stores are interrogating employees. Is that true?

A. False.

Q. And that's false because of that order, correct?

A. Correct.

Q. That order tells you not to talk to the employees, correct?

A. Correct.

Q. There's been some testimony about the identification of some of the workers. Is it true that sometimes -- or in many instances, workers give you a different name than the name that they legally have?

A. Exactly.

Q. So it's fair to say that if somebody gives you their legal name, you might not know them because they go by a different name, like Jerry for Chris Bruce?

A. They have a different benefit card and they have different name on the social security number. So they always show the benefit card, so I assume that maybe this is their name.

Q. So that could be the reason, that's the explanation why -- you know, you've been presented with many names in this lawsuit, but it's very difficult to corroborate that name and identify it as an employee, correct?

A. Correct. Because I always ask them to bring the social



1 security number, and they said they are illegal immigrants.

2 They don't have it.

3 Q. For instance, Joseph Kofei. Is he sometimes known as  
4 Osmand?

5 A. I don't remember.

6 Q. Did you demote Keletso Tebogo?

7 A. Not really. If I want, I want fire him, but I didn't fire  
8 nothing. Because the business activities is reducing, this way  
9 I have to cut then the hours.

10 Q. So rather than firing employees, you reduce their hours,  
11 correct?

12 A. Excuse me?

13 Q. Rather than firing employees, you're reducing their hours.

14 A. Hours, because everybody can survive.

15 Q. Did you move Keletso from one store to another store?

16 A. Excuse me?

17 Q. Did you move Keletso Tebogo from one store to work at  
18 another store?

19 A. See, you know, that wherever we need people, we have to  
20 move, you know.

21 Q. So that's actually -- that's not -- your motivation wasn't  
22 retaliation, right. Let me finish my question.

23 Was your motivation to move Keletso Tebogo  
24 retaliation?

25 A. No, it is not.

1 Q. Have you hired any new employees?

2 A. We did. Cashiers.

3 Q. How many cashiers?

4 A. Two, I think.

5 Q. Two? Full-time, part-time?

6 A. Yeah, part-time mostly.

7 Q. Are they replacing the hours of any of the plaintiffs who  
8 have had their hours reduced?

9 A. Because this case shift, this lady that her cash register,  
10 not for the working outside.

11 Q. Okay. So then --

12 A. This is a different volume.

13 Q. Different positions?

14 A. Correct.

15 Q. So they're not replacing anybody else's hours.

16 A. No, they are not.

17 Q. Do you know Israel Uduaghan?

18 A. Yes, sir, I know.

19 Q. Was he ever an assistant manager in your stores?

20 A. Nobody is manager, everybody is a worker.

21 Q. Were his hours reduced?

22 A. It was not hours. I just told you, the business activities  
23 is -- so I have to move from one place to another in order to  
24 survive, other than to fire them.

25 Q. So the reason Israel -- and I'll just call him Israel --

1 Israel's hours would be reduced is because of the business  
2 condition, correct?

3 A. Correct.

4 Q. Did you ever interrogate any workers about this lawsuit?

5 A. Not true.

6 Q. Did Gulan Doria ever interrogate any employees about this  
7 lawsuit?

8 A. Not true.

9 Q. Did anybody who worked in management for the defendant  
10 companies ever interrogate anybody about this lawsuit?

11 A. Not true.

12 Q. Sergio Recinos. Do you know this person?

13 A. Yes, sir.

14 Q. Who is he?

15 A. One of the worker.

16 Q. Does he still work for you?

17 A. Yes.

18 Q. Is he a plaintiff in this lawsuit, to your knowledge?

19 A. Yes.

20 Q. Did you reduce his hours?

21 A. Yes.

22 Q. Why did you reduce his hours?

23 A. Because, I told you, business activities are slow. He  
24 knows too.

25 Q. Do you know who Miguel Rosendo is?

1 A. Yes, I know.

2 Q. There's been some papers submitted stating that Miguel  
3 Rosendo went to the May 21st hearing, the hearing that was  
4 going to be before Judge Sweet. Do you recall if you saw him  
5 there?

6 A. I don't remember.

7 Q. Miguel says he attended this hearing, and then when he went  
8 back to his store, he was sent home because he went to the  
9 hearing. Is that true?

10 A. It's not true.

11 Q. Were Miguel Rosendo's hours reduced?

12 A. Correct. Others too.

13 Q. Why were his hours reduced?

14 A. Same, for business activities.

15 Q. Mohamed Doria. Was he your business partner?

16 A. Not really.

17 Q. Yes or no?

18 A. No.

19 THE COURT: No.

20 MR. CHONG: Nothing further, Judge.

21 MR. MARLBOROUGH: Nothing further from plaintiffs on  
22 this witness.

23 THE COURT: You're excused, Mr. Memon.

24 Anything further from the plaintiffs?

25 MR. MARLBOROUGH: I'd like to call one more witness.

1 THE COURT: Not today.

2 MR. MARLBOROUGH: Okay. Thank you, your Honor. We'll  
3 rest, in that case.

4 THE COURT: Okay. Thank you.

5 I'll reserve decision.

6 MR. CHONG: Your Honor, would it be possible to make a  
7 post-hearing submission to the Court?

8 THE COURT: Sure.

9 MR. CHONG: Something short. I don't plan on sending  
10 you anything big.

11 THE COURT: Sure. When do you want to submit them?

12 MR. CHONG: May I have seven days?

13 THE COURT: Sure.

14 MR. CHONG: Thank you, Judge.

15 THE COURT: Anything else?

16 MR. CHONG: No, sir.

17 MR. MARLBOROUGH: Your Honor, I apologize. I guess we  
18 could make our request. We're going to request a scheduling  
19 conference that we haven't even gotten out of the gate with.

20 THE COURT: We can do that later on.

21 MR. MARLBOROUGH: We can do that through the papers.

22 THE COURT: Right.

23 (Adjourned)

24

25